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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.REV.P. 529/2015

TRIBHUVAN PRASAD

..... Petitioner

Through: Mr. Gaurav Kumar Bansal, Advocate
versus

STATE

..... Respondent

Through: Mr. Mukesh Kumar, Additional
Public Prosecutor for the State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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12.02.2016

P.S. TEJI, J. (ORAL)

1. By this petition filed under Section 397/401 of Cr. P.C., the petitioner seeks to challenge the order of conviction dated 01.06.2015 passed by learned Additional Sessions Judge/ Special Judge (PC Act) CBI-3, South, Saket Courts, New Delhi as well as order dated 18.12.2014/27.03.2015 passed by learned Metropolitan Magistrate (South-05), Saket Court, New Delhi.

2. At the outset, the learned counsel for the petitioner restricted the arguments on sentence passed by learned Metropolitan Magistrate and submits that the petitioner has already undergone the sentence for a period of 8 months and 12 days and requests that the petitioner has

family to support, therefore the sentence imposed upon the petitioner be reduced to the period already undergone.

3. Brief facts of the case as emerged from the charge sheet are that on 10.11.2000, at about 11 p.m. on Mehrauli Gurgaon Road near Picnic Hut, Andheria Mor, within the jurisdiction of Police Station Mehrauli, the petitioner was driving TATA 709 No. DL-1LB-7887 in a rash and negligent manner so as to endanger human life and personal safety of others and by driving so, struck the vehicle against a tree and caused grievous hurt to one Mr. Avdhesh Kumar and Mr. Amar Nath. One Mr. Chandrika, who was also sitting in the cabin of offending vehicle next to Mr. Amar Nath, died in the accident. FIR was registered under Section 279/338/304A of IPC and under Section 185 of Motor Vehicle Act on the complaint of one Avdhesh Kumar. It is alleged that the petitioner was driving the offending vehicle at a high speed and in a rash and negligent manner under the influence of liquor and at Andheria Mor, near Picnic Hut Mehrauli, at about 11 p.m., the petitioner hit the left side of the offending vehicle with a tree and consequently, the offending vehicle was badly damaged. The petitioner left the vehicle and ran away from the spot. Investigation

was conducted and a charge sheet was filed against the petitioner for offence under Section 279/338/304A of IPC read with Section 185 of Motor Vehicle Act, to which he did not plead guilty and claimed trial.

4. In order to prove the case, prosecution examined 10 witnesses, statement of the petitioner under Section 313 of Cr. PC was recorded and after conclusion of the trial, the petitioner was convicted and was sentenced to undergo simple imprisonment for six months for the offence under Section 279 IPC and six months for the offence under Section 338 of IPC and further for the offence under Section 304A IPC, the petitioner was sentenced to undergo simple imprisonment for a period of one year.

5. Mr. Mukesh Kumar, Additional Public Prosecutor appears on behalf of the State and submits that the order passed by learned Additional Sessions Judge in the appeal filed by the petitioner is well justified and does not call for any interference from this Court.

6. I have heard learned counsel for the parties and have also gone through the impugned judgments and orders and the nominal roll of the petitioner.

7. After considering the submissions advanced by both the sides

and upon perusal of the impugned order, evidence on record and the decisions cited, I find that there is no illegality or infirmity in the impugned conviction of petitioner-accused. However, on the quantum of sentence, this Court observes that the petitioner is 34 years of age and has family to support, and in the considered opinion of this Court, the petitioner has already faced agony of these proceedings for last about 16 years, and that he has already remained behind the bars in this case for eight months and 12 days. Therefore, this Court is of the opinion that ends of justice would be met if petitioner's substantive sentence is reduced to the period of 9 months.

8. In view of the aforesaid discussion, the present revision petition is partly allowed on the quantum of sentence to the extent indicated above. Trial Court be apprised of this order forthwith by sending copy of this order.

9. This revision petition is disposed of in aforesaid terms.

10. A copy of this order be also sent to Jail Superintendent for information and necessary action.

P.S.TEJI, J

FEBRUARY 12, 2016
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