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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Date of hearing and Order: 5<sup>th</sup> February 2016*

+ CRL.REV.P. 777/2015  
AJAY SHAH

..... Petitioner

Through: Mr. Anurag Jain, Advocate

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Ms. Meenakshi Chauhan, Additional  
Public Prosecutor for the State with  
Sub-Inspector Roshan Lal, Police  
Station Nangloi, Delhi

**CORAM:**

**HON'BLE MR. JUSTICE P.S.TEJI**

**ORDER**

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**05.02.2016**

**P.S. TEJI, J. (ORAL)**

1. By this petition filed under Section 397/401 of Cr. P.C. read with Section 482 of Cr. P.C. , the petitioner seeks to challenge the order of conviction dated 22.08.2014 and order on sentence dated 27.10.2014 passed by learned Metropolitan Magistrate, Tis Hazari, Delhi, whereby the petitioner was sentenced to undergo rigorous imprisonment for a period of one and half years. The petitioner also

seeks to challenge the orders dated 14.10.2015 and 19.10.2015 passed by learned Additional Sessions Judge -04(West) Tis Hazari, Delhi, passed in Criminal Appeal No.62/2/14, whereby though the appeal of the petitioner has been dismissed, but the sentence imposed upon the petitioner was reduced to the period of rigorous imprisonment for one year.

2. At the outset, the learned counsel for the petitioner restrict the arguments on sentence passed by learned Metropolitan Magistrate and submits that the petitioner has already undergone the sentence for a period of 7 months and 26 days and requests that the petitioner has four children and 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 23.07.2002 at around 12 PM at Main Rohtak Road, Near Ganda Nala, Bhim Nagar, Nangloi, New Delhi, the petitioner was driving Truck bearing No. DL-1GA-0802 in a rash and negligent manner and hit a scooter No. DL-8SQ-117 and caused death of Deen Dayal and Sanaullah and as such committed offence punishable under Section 279/304A of IPC. The petitioner was charged under Section

279/304A of IPC vide order on charge dated 24.12.2003 to which he pleaded not guilty and claimed trial. In support of his case, the prosecution examined as many as ten witnesses and the petitioner was also examined under Section 313 read with Section 281 of Cr. P.C. After hearing the counsel for the petitioner and for the State, learned Metropolitan Magistrate, New Delhi convicted the petitioner and sentenced him to undergo rigorous imprisonment for a period of one and half years and also directed him to pay compensation of Rs.20,000/- to the mother of the deceased Deen Dayal alongwith Rs.10,000/- as expenses incurred in prosecution of this matter. Feeling aggrieved by the order of conviction dated 22.08.2014 and order on sentence dated 27.10.2014, the petitioner preferred an appeal under Section 374 of Cr. P.C. before the learned Additional Sessions Judge, which was dismissed but the order on sentence was modified and the sentence imposed upon the petitioner was reduced to the period of one year.

4. Ms. Meenakshi Chauhan, 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.

5. 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.

6. 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 a sole bread-earner of his family having an old aged mother to look after and family of six persons and in the considered opinion of this Court, the petitioner has already faced agony of these proceedings for last about 14 years, and that he has already remained behind the bars in this case for almost eight months. 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.

7. 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.

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

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

**P.S.TEJI, J**

**FEBRUARY 05, 2016**  
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