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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 60/2017

MAHESH KUMAR

..... Petitioner

Through: Ms. Aishwarya Rao and Ms. Rita
Chaudhary, Advs.

versus

STATE (GOVT. OF NCT) THR.STANDING COUNSEL
OF DELHI

..... Respondent

Through: Ms. Meenakshi Chauhan, APP for
State with SI Habib Ahmed, P.S.
Shahdara.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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10.08.2017

Petitioner has been convicted under Sections 279/304-A IPC and Sections 3/181, 39/192 and 146/196 of M.V. Act, vide judgment dated 29th November, 2013 passed by the learned Metropolitan Magistrate and sentenced to undergo rigorous imprisonment for 2 years for the offence punishable under Section 304-A IPC and simple imprisonment for 6 months for the offence punishable under Section 279 IPC; petitioner was also sentenced to undergo simple imprisonment for a period of 2 months under Section 3/181 of the M.V. Act and simple imprisonment for a period of 2 months under Section 146/196 of the M.V. Act and fine of ₹2,000/- (in default 1 month simple imprisonment) under Section 39/192 of M.V. Act. All the sentences were directed to run concurrently. Petitioner preferred an

appeal before the learned Additional Session Judge-04, Shahdara District, which was dismissed vide judgment dated 26th November, 2016.

That is how the petitioner is before this Court by way of present revision petition under Section 397 Cr.P.C.

As per the prosecution, petitioner, while driving a tractor bearing HYQ-5752 on 1st March, 2001 at about 06:15 pm, knocked down the deceased, namely, Santosh Kumar resulting in his death. PW3 Rambeer Singh and PW5 Ajay Kumar had witnessed the incident. Trial Court as well as Appellate Court have scrutinized their testimonies along with other prosecution witnesses and the material collected during the investigation and have concluded that prosecution has succeeded in proving that petitioner, while driving the tractor in a rash and negligent manner, had knocked down the cyclist Santosh Kumar resulting in his death, thus, was guilty of offences under Sections 279/304-A IPC. It was further observed that offences under Sections 3/181, 39/192 and 146/196 of the M.V. Act were also proved beyond the shadow of reasonable doubt.

There are concurrent findings of the courts below. It is trite law that a Revision Petition cannot partake the status of an appeal. Evidence adduced before the trial court is not to be sifted and weighed by the High Court,

while exercising its revisional jurisdiction so as to superimpose its own finding as against the findings returned by the trial court and the Appellate Court. High Court has only to see as to whether there is any violation of any legal principle or whether the findings returned by the trial court on the evidence adduced are palpably perverse. This principle has been enunciated by this court and the Supreme Court in a catena of judgments.

During the course of hearing, learned counsel for the petitioner has failed to point out any flagrant violation of legal principle nor is it a case that conviction has been based on no evidence. No perversity could be shown in the impugned judgment, inasmuch as, challenge to the conviction of the petitioner has been given up. Learned counsel for the petitioner has prayed for leniency in the sentence. It is submitted that petitioner was aged about 20 years at the time of incident. Petitioner has no previous criminal record. Petitioner belongs to the poor strata of society and his entire family, comprising of his wife, four minor children and aged parents, is dependent on him. It is further submitted that petitioner was having two other brothers who, unfortunately, have died and their families are also dependent on the petitioner.

Keeping in mind that facts and circumstances of this case, while

upholding the conviction of the petitioner, his sentence is reduced to the period already undergone by him. However, petitioner is directed to pay compensation of ₹50,000/- to the parents of the deceased, that is, Sh. Ram Dutt and Smt. Ram Lali, as he was unmarried; and in default of payment of compensation, petitioner shall undergo simple imprisonment for 6 months. Compensation be deposited before the trial court and, thereafter, trial court shall release the same to the parents of the deceased in equal proportion. In case compensation is deposited, petitioner be released from the jail, if not required in any other case.

Petition is disposed of in the above terms.

Copy of the order be given dasti to the counsel for the petitioner under the signatures of Court Master.

A.K. PATHAK, J.

AUGUST 10, 2017

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