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

+ CRL.REV.P. 127/2017

RAJENDER KUMAR

..... Petitioner

Through: Mr. Zakir Hussain and Mr. Hari
Krishnan, Advs.

versus

STATE

..... Respondent

Through: Ms. Neelam Sharma, APP for the State
with SI Dharmendra Pratap Singh, P.S.
Samaipur Badli.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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10.02.2017

Petitioner has been convicted under Sections 279/304A IPC by the trial court and sentenced to undergo rigorous imprisonment for 18 months with fine of ₹5,000/- and in default of payment of fine to undergo simple imprisonment for 60 days for the offence under Section 304A IPC; rigorous imprisonment for 6 months for the offence under Section 279 IPC. Both the sentences were directed to run concurrently. Petitioner preferred an appeal before the Additional Sessions Judge, Delhi which has been dismissed vide order dated 17th December, 2016.

That is how the petitioner is before this Court by way of present revision petition under Section 397 read with Sections 401 and 482 Cr.P.C.

As per the prosecution, on 5th January, 2003 petitioner, while driving a truck no. DL1GB 3756 in a rash and negligent manner, hit one Sh. Rati Ram

who was crossing the road resulting into his death at the spot itself. As per the prosecution, petitioner did not immediately stop the truck and dragged the deceased upto 50-60 meters. Incident was witnessed by PW3-Amar Nath who was accompanying the deceased. Deceased was 75 years of age. PW3 was following the deceased. Trial court and the Appellate Court has noted that PW3 had supported the prosecution version. He also identified the petitioner in Court. Owner of the truck PW1, namely, Satpal has deposed that on 5th January, 2003, at the time of the incident, petitioner was driving the offending truck. He has also identified the petitioner. He was not even cross-examined. Identity of the petitioner stands established in view of the statement of PW3 duly corroborated by PW1. Truck was seized from the spot. Post-mortem report was proved by PW4 Dr. B.N. Acharya. Trial court as well as Appellate Court have marshalled the entire evidence on record carefully and have returned the findings that prosecution had succeeded in proving that petitioner on 5th January, 2003 at about 01:45 pm, while driving the truck no. DL1GB 3756, in a rash and negligent manner, had hit the deceased, who came under the rear wheel and was dragged for some distance and died at the spot.

There are concurrent findings of the two courts below on appreciation of evidence which cannot be interfered with by this Court on re-appreciation of evidence while exercising its supervisory jurisdiction under Section 397

Cr.P.C.

Learned counsel for the petitioner has failed to point out any violation of legal principles, inasmuch as, has given up the challenge to the conviction of the petitioner on merits. However, it is prayed that sentence of the petitioner be reduced. It is submitted that petitioner is now aged about 56 years. He is having three children. His daughter is of marriageable age, petitioner is the sole bread earner in the family, he is not involved in any other criminal case. Petitioner has faced agony of trial about 13 years. He quit the driving after this incident. Petitioner's wife is also suffering from various ailments.

Keeping in mind the above facts, while affirming the conviction of the petitioner under Sections 279/304A IPC, his sentence under Section 304-A IPC is reduced to 9 months. Needless to add that all the sentences shall run concurrently.

Revision petition is disposed of in the above terms.

Dasti.

A.K. PATHAK, J.

FEBRUARY 10, 2017/ga