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

+ CRL.L.P. 316/2014

STATE NCT OF DELHI

..... Petitioner

Through

Ms. Neelam Sharma, APP.

ASI Jitendra Kumar, P.S. New Ashok
Nagar

versus

RAJA RAM

..... Respondent

Through

Ms. Saahila Lamba, Adv.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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24.08.2017

For the death of a child, namely, Kuldeep Singh, because of an accident on 16.10.2002 at around 2 p.m. near Village Gharoli, Delhi, the respondent was put on trial for the offences under Sections 279 and 304A of the IPC.

The learned trial court by the judgment and order dated 29.11.2013 acquitted the respondent of all charges because of the paucity of evidence.

The State seeks to challenge the aforesaid judgment.

The respondent was alleged to be driving the offending vehicle in a rash and negligent manner which led to the accident in which aforesaid Kuldeep Singh was killed. Before the trial court, 6 prosecution witnesses were examined in all.

Umesh Kumar (PW1) deposed before the trial court that on the day of the occurrence, while he was standing at the Chowk of Gharoli Village, he

spotted one truck bearing registration No. UP-14D-3450 coming from Gharoli Dairy Farm side at a high speed and it hit a child who was standing near the corner of the road. He has further stated that the right side front tyre of the truck ran over the body of the child. Brakes were applied but the rear tyre of the truck also ran over the body of the child.

PW1, however, in his cross-examination made a different statement with respect to his presence at the place of the occurrence. He has also made a different statement regarding his assessment of the speed of the truck.

Since the dead body was found to be lying in front of the left rear wheel of the truck, the statement of aforesaid PW1 that the right side front wheel and rear tyre of the offending truck had run over the body of the child was found to be incorrect. The trial court also disbelieved the statement of PW1 on the ground that though he had stated that the vehicle was loaded with bricks and there were some labourers also present on the vehicle but HC Shakil Ahmad (PW4) in his cross-examination had stated that the truck was empty. He (PW4) too has stated before the trial court that he found the dead body lying at the left side wheel of the offending truck.

ASI Mohan Singh (PW5) and HC Hakim Khan (PW6) spoke about presence of one eyewitness namely Mahender Singh. Curiously, Mahender Singh has not been examined by the prosecution. There is no photograph of the situs of the occurrence on record. In the rukka as well as the site plan, there is no reference of presence of any eyewitness at the time of occurrence. Hence, the trial court even doubted the presence of PW1 at the place of occurrence.

Thus, finding the testimony of PW1 to be highly unreliable and in distinction with the tenor of deposition of PWs 4 and 5 as well as absence of

any material to indicate towards rash and negligent driving of the respondent, the trial court acquitted him.

This court does not find any anomaly or perversity in the judgment impugned. The present petition, therefore, fails and leave is declined.

The petition is, accordingly, dismissed.

ASHUTOSH KUMAR, J

AUGUST 24, 2017

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