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

+ CRL.REV.P. 179/2017, Crl. M.B. No. 436/2017 & Crl. M.A. No. 4079/2017

JASWANT ..... Petitioner

Through : Mr. R.K. Tarun, Adv.

versus

STATE OF NCT OF DELHI ..... Respondent

Through : Mr. Tarang Srivastava, APP with SI  
Ganga Pd. Pal, P.S. Civil Lines, Delhi

**CORAM:**

**HON'BLE MR. JUSTICE A.K. PATHAK**

**ORDER**

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**09.03.2017**

Petitioner was convicted under Sections 279/304-A IPC by the trial court and sentenced to undergo simple imprisonment for four months with fine of ₹1,000/- and in default of payment of fines SI for 10 days under Section 279 IPC; rigorous imprisonment for one year with fine of ₹9,000/- and in default, SI for one month under Section 304-A IPC. Both the sentences were directed to run concurrently.

Petitioner filed an appeal before the District Judge, which has been dismissed by the Special Judge, CBI (PC Act) – 06, Central District, Tis

Hazari Courts, Delhi.

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

There are concurrent findings of two courts, rendered on appreciation of evidence. I have perused the material placed on record and find that findings have been returned by the courts below on meticulous scrutiny of the evidence, which had come on record of the trial court. Revisional jurisdiction of the High Court under Section 397 of the Cr.P.C. is supervisory in nature. High Court has not to re-appreciate the evidence and return a finding of facts afresh as if hearing an appeal. High Court will interfere only if it is shown that there is a flagrant violation of any legal principle or the concurrent finding has resulted in miscarriage of justice.

As per the prosecution, petitioner while driving DTC bus bearing registration no. DL-1PB-2398 in a rash and negligent manner, hit a pedestrian, namely, Satbir Singh, near bus stop at Shyam Nath Marg, I.S.B.T. Road, Delhi, within the jurisdiction of Police Station Civil Lines, Delhi. The pedestrian, who was hit, came under the front wheel of the bus and expired at the spot itself. PW1 HC Neki Ram was on patrolling duty at Sham Nath Marg and had witnessed the incident.

PW1 HC Neki Ram has supported the prosecution case. He has corroborated his version, as contained in the FIR. Trial court as well as appellate court has noted that his testimony was trustworthy and reliable. Death of deceased in a road accident stands proved from the testimony of PW8 Dr. Kulbhushan Goel, who had conducted the post-mortem. He had proved his report Ex. PW8/A. Trial court as well as appellate court has also noted that bus was seized from the spot. PW1 HC Neki Ram had identified the petitioner in court correctly. Photographs of the spot were also considered.

During the course of hearing, learned counsel for the petitioner has failed to point out any flagrant violation of any legal principle; inasmuch as, has given up the challenge to the conviction of petitioner on merits. He has simply prayed for the reduction of sentence. It is submitted that petitioner is about 59 years of age. He is the sole bread-earner in the family, which comprises of his wife, two daughters and one son. Petitioner's wife is stated to be suffering from various ailments. Petitioner has no past criminal record. Incident happened in the year 2006. Petitioner has faced agony of trial for eleven years. During the trial, petitioner was on bail but has not indulged in any other accident. Petitioner is in jail for 2½ months. It is

stated that, in his absence, the whole family is living in penury.

I have considered the contentions of learned counsel for the petitioner. In the facts and circumstances of this case, while upholding the conviction of petitioner under Sections 279/304-A IPC, his sentence under Section 304-A IPC is reduced to six months. All the sentences shall run concurrently. Petitioner will also be entitled to the benefit under Section 428 Cr.P.C.

Petition is disposed of in the above terms. Miscellaneous applications are disposed of as infructuous. Dasti.

**A.K. PATHAK, J.**

**MARCH 09, 2017**  
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