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

+ CRL.REV.P. 378/2017 & CRL.M.(BAIL) 963/2017

SACHIN

..... Petitioner

Through : Mr. Vinod Dubey, Adv.

versus

STATE NCT OF DELHI

..... Respondent

Through :Mr. G.M. Farooqui, APP with SI
Avdhesh, P.S. Saket, New Delhi

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **28.07.2017**

Petitioner was convicted by the trial court for the offences under Sections 279/304-A IPC and sentenced to undergo simple imprisonment for eighteen months under Section 304-A IPC with fine of ₹10,000/- and in default of payment of fine to undergo simple imprisonment for two months; sentenced to pay fine of ₹1,000/- for the offence under Section 279 IPC and in default of payment of fine to undergo simple imprisonment for fifteen days. Petitioner was directed to pay compensation of ₹50,000/- to the LRs of the deceased and in default of compensation to undergo imprisonment for six months.

Petitioner preferred an appeal before the District and Sessions Judge,

Saket Court, New Delhi, which has been disposed of vide judgment dated 29th March, 2017. Conviction of the petitioner under Sections 279/304-A IPC has been upheld. However, sentence under Section 304-A IPC has been reduced to six months.

That is how, petitioner is before this Court by way of present Revision Petition under Section 397 Cr.P.C.

There are concurrent findings of the trial court and appellate court, on appreciation of evidence, which cannot be interfered with by the High Court by re-appreciating the evidence. The status of revision petition cannot partake that 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 findings 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 legal principles or whether the findings returned by the trial court after adducing the evidence are palpably perverse.

As per the prosecution, petitioner while driving the truck bearing no. HR-63-7241 in a rash and negligent manner, hit the scooter bearing no. UP-12E-2269 driven by one Shri Anuj Kumar on 26th October, 2009 at about

6:25 AM at T-point, M.B. Road, Near H-Block, Saket, New Delhi. As a consequence of impact, Shri Anuj Kumar sustained fatal injuries to which he succumbed before reaching the hospital. As per the prosecution, PW1 Shri Rajbir Singh and PW4 Constable Ram Prasad had witnessed the incident.

Trial Court and Appellate Court have noted that both the PWs have duly supported the prosecution version. PW1 Rajbir Singh deposed that on 26th October, 2009 at about 6:30 am, when he reached the T-point, M.B. Road, Near Khoka Market, he saw one truck (half body) bearing no. HR 6321 coming from Badarpur Road side at a very high speed. It took a sharp turn towards Saket, Khoka Market and struck against the two wheeler scooter. After the accident, driver of the said truck ran away from the spot in his truck. He further deposed that he chased and tried to stop the said truck but the driver did not stop. Finally, aforesaid truck was stopped near Srinivas Puri Bus Depot and the police was called. Petitioner was handed over to police officials. PW1 has correctly identified the petitioner in Court. PW4 Constable Ram Prasad deposed that on 26th October, 2009, he was posted at P.S. Saket. He was on patrolling duty and at about 6:25 am, he reached at T-point, M.B. Road, Near H Block, Saket, New Delhi and saw the speeding truck, which was coming from Khanpur side, hit a two wheeler

scooter near Khoka Market, as a result whereof scooterist fell down with his scooter and sustained fatal injuries. After causing the accident, driver of the said truck drove away his truck. PW4 stopped a car and chased the said truck in that car. He apprehended the petitioner with his truck near Okhla Mandi. Trial court and appellate court have noted that their testimonies were trustworthy and reliable. The contradictions, pointed out by the learned counsel for the petitioner, have been treated as minor contradictions. This court has not to re-appreciate their testimonies in details and take a view different than what has been taken by the two courts.

It is not the case where conviction has been based on no evidence nor is it a case in which the findings returned by the courts below can be said to be totally perverse. Learned counsel has failed to point out any violation of legal principles. PW1 had no personal enmity with the petitioner. He was totally stranger to the petitioner. There was no reason for him to falsely implicate the petitioner.

For the foregoing reasons, Revision Petition is dismissed. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

JULY 28, 2017/rb