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

+ CRL.REV.P. 40/2018, Crl. M.A. no. 750/2018 & Crl. M.B. No. 71/2018

IBRAHIM

..... Petitioner

Through Mr. Kartickay Mathur and Mr. Sanpat Gupta, Advs.

Versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through Ms. Rajni Gupta, APP with SI Ashok Kumar, P.S. Patel Nagar

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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15.01.2018

Petitioner was convicted under Sections 279/337/304-A IPC by the trial court and sentenced to undergo simple imprisonment for two months under Section 279 IPC; simple imprisonment for two months under Section 337 IPC and simple imprisonment for one year under Section 304-A IPC. All the sentences were directed to run concurrently. Petitioner was also directed to pay ₹30,000/- towards compensation to LRs of deceased Happy Bhalla and in default of payment of compensation, to undergo simple imprisonment for three months. Petitioner was also directed to pay ₹20,000/- towards compensation to the injured Dr. Sanjay Bhalla and in

default of payment of compensation, to undergo simple imprisonment for two months.

Petitioner preferred an appeal before the Additional Sessions Judge, which has been dismissed vide judgment dated 5th January, 2018.

That is how petitioner is before this court by way of present petition under Section 482 of the Code of Criminal Procedure.

There are concurrent findings of fact returned by the trial court and Appellate Court against the petitioner, on appreciation of evidence. 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 the revisional jurisdiction so as to superimpose its own findings of fact as against the findings returned by the two courts. 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 on the evidence adduced are palpably perverse. This principle has been enunciated by this court and the Supreme Court in catena of judgments.

PW2 Dr. Sanjay Bhalla has deposed that he was going on his scooter on 31st January, 1999 along with his sister, who was sitting on the pillion seat. PW2 has categorically deposed that when they reached near Patel

Nagar Chowk one truck bearing registration no. DL-1G-9074 came from Naraina Road side in a rash and negligent manner and struck his scooter from behind. As a consequence of which his sister fell down and her neck was crushed by the right wheel of the truck. He has also stated that he sustained injuries on his left leg and other parts of his body. He and his sister were taken to hospital by a PCR vehicle. His sister was declared brought dead by in RML Hospital. He proved his statement recorded by the police as Ex.PW2/A. It is his this statement which had led to the registration of FIR. PW2 has categorically deposed that truck driver came down from the truck after stopping it and fled away from the spot. Ms. Kanta had produced the petitioner before the Investigating Officer on 31st January, 1999. She stated that petitioner was driving the truck on the fateful day. PW6 is the owner of the truck. Petitioner had refused for TIP. PW2 identified the petitioner in Court correctly. Identification of the petitioner by PW2 coupled with the testimony of PW6 shows that petitioner was driving the truck at the time of accident. Petitioner had hit the scooter from behind, as a result whereof pillion rider fell down and came under the wheel of the truck. Statement of PW2 coupled with the circumstances in which accident took place where deceased came under the wheel of the truck clearly proves

that petitioner was driving the truck in a rash and negligent manner.

After arguing for some time, learned counsel for the petitioner has otherwise, given up challenge to the conviction of petitioner on merits. It is prayed that sentence of petitioner be reduced. Petitioner is a poor person. He has having a family comprising of his wife and four children. Three daughters of the petitioner are unmarried. Petitioner's wife is not working. Petitioner has suffered agony of trial for 19 years. Petitioner is not involved in any other crime except the present case.

For the foregoing reasons, while affirming the conviction of petitioner, substantive sentence of imprisonment under Section 304-A IPC is reduced to six months. Other sentences are maintained. All the sentences shall run concurrently. Petitioner shall also be entitled to the benefit of 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.

JANUARY 15, 2018
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