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

+ CRL.REV.P. 232/2018, Crl. M.A. no. 5007/2018 & Crl. M.B. no. 470/2018

SURENDER KUMAR SHARMA Petitioner
Through Mr. Pawan Sharma, Adv.

Versus

THE STATE GOVT OF NCT OF DELHI Respondent
Through Dr. M.P. Singh, APP with SI
Rajendra Kumar, P.S. NFC

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **19.03.2018**

1. Petitioner was convicted under Sections 279/337/304-A IPC and sentenced to undergo rigorous imprisonment for two years under Section 304-A IPC; rigorous imprisonment for six months under Section 337 IPC and six months under Section 279 IPC. Petitioner has also been directed to pay compensation of ₹15,000/- to each of the injured Dinesh Rai and Harish Kumar. It is noted that legal heirs of the deceased have already received ₹11,00,000/- as compensation. All the sentences were directed to run concurrently. Petitioner preferred an appeal before the Additional Sessions

Judge, Delhi, which has been dismissed, vide judgment dated 7th March, 2018.

2. That is how, petitioner is before this Court by way of present Revision Petition under Sections 397/401 Cr.P.C.

3. As per the prosecution, petitioner while driving Tata Safari car bearing registration no. DL 3CAX 4212 in a rash and negligent manner on 10th October, 2010 at about 9 AM hit five vehicles at the traffic light at Maseegarh Chowk, New Friends Colony, New Delhi resulting in simple injuries to Saji Thomas, Dheeraj Rai, Naresh Kumar and death of one Suresh Chand. PW1 Mohd. Saghir and PW2 Munna have fully supported the prosecution. As regards PW4 Dheera Rai did not identify the petitioner. PW6 Harish did not depose that he had seen the petitioner at the spot. He said that he saw the driver at police station. PW7 Ramesh Chand Trivedi also stated that he did not see the petitioner at the spot. It is noted that petitioner was apprehended at the spot. Trial court and the Appellate Court have rightly accepted the statements of PW1 and PW2.

4. It is trite to say that in exercise of its revisional jurisdiction, High Court is not to sift and weigh the evidence on record as if hearing an appeal and substitute a finding against what has been arrived by the two courts

below after marshalling the evidence. Only gross perversity in the findings as well as the procedural illegality, if any, has to be considered. High Court can interfere only if petitioner is able to demonstrate any flagrant violation or misuse of procedure in the order or that the settled legal position had been ignored. Petitioner has failed to point out any perversity and illegality in the impugned order resulting in miscarriage of justice. It cannot be said that the findings returned by the courts below are without any evidence and/or are perverse.

5. During the course of hearing, learned counsel for the petitioner has given up challenge to the conviction on merits. He has only prayed for reduction in sentence. It is submitted that petitioner has faced agony of trial for seven years. Petitioner is not a commercial driver. He was driving his own car. Petitioner is aged about 45 years. Petitioner has three children. Petitioner's wife is unwell. Petitioner has no past criminal record. Accident took place at the red light when light was turning from red to green. As per one witness, it was green; whereas other witness stated that it was yellow.

6. Keeping in view the facts and circumstances of this case, sentence of the petitioner under Section 304-A IPC is reduced to nine months. Rest of the sentences shall remain as it is. All the sentences shall run concurrently.

7. Revision petition is disposed of in the above terms. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

MARCH 19, 2018

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