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

+ CRL.REV.P. 306/2018 & CrI. M.A. no. 6430/2018

SUKHBIR SINGH

..... Petitioner

Through

Mr. Archit Upadhyay, Adv. with
petitioner produced from jail

versus

STATE

..... Respondent

Through

Mr. M.S. Oberoi, APP with SI Rang
Lal, P.S. Sangam Vihar

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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07.05.2018

Petitioner was convicted by the trial court under Sections 279/338/304-A IPC and sentenced to undergo rigorous imprisonment for 18 months under Section 304-A IPC; 18 months under Section 338 IPC and 6 months under Section 279 IPC. Petitioner was also directed to pay ₹7,000/- to the LRs of deceased and ₹3,000/- to the injured towards compensation. An appeal filed by the petitioner has been dismissed by the Additional Sessions Judge-03 (South), Saket Courts, New Delhi, vide judgment dated 22nd November, 2017.

That is how, petitioner is before this Court by way of present petition

under Sections 397 Cr.P.C. read with Section 401 Cr.P.C.

As per the prosecution, on 10th June, 2007 at about 2:00 pm petitioner hit two boys, namely, Pinku @ Prashant and Sanju Bhatia (injured), who were coming from the opposite direction after crossing the divider, while driving the vehicle bearing registration no. DL 1LG 7241 in a rash and negligent manner, thereby resulting injuries to them. Pinku @ Prashant succumbed to his injuries. PW1 Shankar Prasad had witnessed the incident and has supported the prosecution version, inasmuch as has identified the petitioner in court. PW2 Sanju (injured) also supported the prosecution version and identified the petitioner in Court. Trial court and Appellate Court have found their testimonies to be trustworthy and reliable. PW3 Bedi is owner of the aforesaid vehicle and stated that petitioner was his driver and was driving the aforesaid vehicle on the fateful day. Other corroborative piece of evidence including medical evidence was also considered.

There are concurrent findings of facts returned by the two lower courts. 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 finding 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 on the evidence adduced are palpably perverse. This principle has been enunciated by this court and the Supreme Court in a catena of judgments.

During the course of hearing, learned counsel for the petitioner, on instructions of petitioner present in Court, submits that conviction of the petitioner is not being challenged and the same may be re-affirmed. The only prayer made by the learned counsel is that sentences of petitioner may be reduced to the period already undergone by him. It is submitted that petitioner is aged about 35 years. He belongs to a poor family. He has three minor daughters. Petitioner's wife is unemployed. The whole family is leading a life of vagrancy in absence of the petitioner. Petitioner is in incarceration for about six months. His jail conduct is satisfactory. Petitioner has no past criminal record. Petitioner has paid the compensation. Learned APP has opposed the prayer. It is submitted that one life was lost because of rash and negligent driving of the petitioner. Petitioner has suffered incarceration only of six months, which is inadequate.

I have considered the rival contentions of both the parties. Petitioner

has three minor daughters. Petitioner belongs to a poor family and has no past criminal record. He has three daughters. Petitioner has faced agony of trial for about 10 years. Jail conduct of petitioner is satisfactory. Keeping in view of the totality of facts and circumstances of this case, sentence of the petitioner is reduced to nine months under Sections 338/304-A IPC. All the sentences shall run concurrently.

Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous. A copy of this order be sent to Superintendent Jail.

A.K. PATHAK, J.

MAY 07, 2018
r.bararia