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

+ CRL.REV.P. 621/2018

MAHIPAL SINGH Petitioner
Through Mr.K.Z. Khan, Adv.

versus

THE STATE GOVT OF NCT OF DELHI Respondent
Through Ms.Manjeet Arya, APP.
SI Nasib Singh PS Kirti Nagar.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **25.07.2018**

Crl. M.A. No. 28464/2018 (condonation of delay)

Delay condoned. Application is disposed of.

Crl. M.A. No. 28465/2018 (exemption)

Allowed, subject to all just exceptions. Application is disposed of.

Crl.Rev.P.621/2018

There are concurrent findings of facts of guilt of petitioner under Sections 279/304-A IPC returned by the trial court and Appellate Court on appreciation of evidence. Petitioner has also been convicted under section 174A IPC.

I have perused the judgment of Trial Court and Appellate Court and

the other material placed on record and I find that findings returned by the Courts below is based on sound appreciation of evidence. It is not a case that findings are based on no evidence.

It is trite law that in exercise of its revisional jurisdiction, High Court is not to sift and weigh the evidence on record as if hearing an appeal. High Court cannot substitute the concurrent findings, on re-appreciation of 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.

PW-1 is the eye-witness to the incident and he has categorically deposed that he was going on his scooter bearing no.DL-9SH-1332 with his wife when the bus driven by the petitioner in fast speed and negligent manner came from behind and tried to overtake the scooter without blowing the horn and in that process hit the side of the bus to his scooter, as a result

whereof he fell down on footpath; whereas his wife fell down towards the bus and was crushed by the rear wheel of the bus.

Trial Court as well as Appellate Court have found the testimony of this witness to be trustworthy and reliable. Petitioner was correctly identified by the eye-witness. Trial Court has also relied on the mechanical inspection report of both the vehicles Ex.PW-4/A and Ex.PW-4/B respectively wherein it was stated that the impact on the vehicles was huge.

During the course of hearing, learned counsel has failed to point out any flagrant violation of settled legal principles or perversity in the impugned judgment, inasmuch as has given up the challenge to conviction of petitioner on merits. He has confined his prayer only to the reduction of sentence of two years under Section 304-A IPC to the period already undergone by the petitioner, which is about 7 months. He contends that petitioner has no past criminal record. Petitioner is the sole bread-earner. It is contended that in absence of the petitioner his family comprising of his wife, three children and aged parents are leading life of vagrancy and are at the verge of starvation.

Keeping in view the facts and circumstances of this case and the contentions of learned counsel for petitioner, while affirming the conviction

of petitioner under Sections 279/304-A IPC, his sentence under Section 304-A IPC is reduced to one year from two years. Other sentences under Section 279 IPC and 174A IPC are maintained. All the sentences shall run concurrently. Petitioner shall also be entitled to benefits under Section 428 Cr.P.C.

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

A.K. PATHAK, J

JULY 25, 2018
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