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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.REV.P. 359/2018

PRAMOD KUMAR @ PAMMI

..... Petitioner

Through: Ms. Saahila Lamba and Mr. Prince
Wadhwa, Advs.

versus

STATE

..... Respondent

Through: Dr. M.P. Singh, APP for State with SI
Yogendra, P.S. Gulabi Bagh.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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09.05.2018

Petitioner was convicted under Section 33 of the Delhi Excise Act by the trial court and sentenced to undergo rigorous imprisonment for 1 year with fine of ₹70,000/- and in default of payment of fine to undergo simple imprisonment for two months. Petitioner filed appeal before the Appellate Court which has been dismissed vide judgment dated 19th April, 2018.

That is how petitioner is before this Court by way of present revision petition under Section 482 of the Code of Criminal Procedure, 1908.

As per the prosecution, petitioner was found in possession of 43 quarter bottles of liquor without licence on 9th July, 2012 at about 5:30 am near Metro pillar no. 111, Gali No.2, Road No. 40, Pratap Nagar, Delhi. Petitioner was apprehended by ASI Sanjay Kumar who was on patrolling

duty. Consequently, FIR was registered. ASI Sanjay Kumar was examined as PW1. He supported prosecution case fully. Trial court as well as appellate court have found him to be trustworthy and reliable witness. Testimony of other witnesses PW2 HC Inderjeet, PW 3 HC Rajkumar, PW4 Const. Srikant and PW5 ASI Bhim Singh was also considered by the trial court. PW4 Const. Srikant was with ASI Sanjay Kumar on patrolling duty and was present when liquor was seized . He has corroborated the version of PW1. Petitioner was identified by PW1 and PW4 in Court correctly.

Findings of fact have been returned by the trial court as well as appellate court on appreciation of evidence which cannot be re-appreciated by this Court in exercise of revisional jurisdiction under Section 397 Cr.P.C. Revision cannot partake status of an appeal. This Court has only to see if there is any violation of legal principles or findings returned by the trial court and appellate court are based on no evidence which resulted in miscarriage of justice.

During the course of hearing, learned counsel for the petitioner has failed to point out any perversity in the impugned judgment, inasmuch as, two witnesses have supported the prosecution. After arguing for some time learned counsel for the petitioner, on instructions, has given up challenge to

the conviction of petitioner on merits. The only prayer made by learned counsel is for reduction of sentence. It is submitted that petitioner is aged about 55 years. Petitioner's family, comprising of his wife and four children, who are totally dependent upon him. Petitioner's wife is suffering from tuberculosis.

Keeping in mind the above facts, substantive sentence of imprisonment of petitioner is reduced to four months. However, sentence of fine is maintained as it is.

Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

MAY 09, 2018

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