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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.REV.P. 422/2018 &CRL.M.(BAIL) 801/2018

MANOJ KUMAR

..... Petitioner

Through : Mr. Sudershan Joon, Advocate.

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through : Mr. Ashish Dutta, APP for
State with IO/SI Chhote Lal,
P.S. Punjabi Bagh, Delhi.

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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10.12.2018

1. Learned APP for State submitted that as per the record, one of the injured Rudra Narayan is not traceable despite the best efforts of the Investigating Officer.
2. Learned counsel for the petitioner and the learned APP for the State submitted that vide order dated 21.08.2018, this court was pleased to reduce the conviction of the petitioner under Section 304-A to five months, after taking into consideration, the fact that the petitioner had already undergone about 4 months' incarceration. It was observed in the order dated 21.08.2018 that the petitioner had not paid either the fine amount or the compensation of Rs.1 lac to the LRs of the deceased and Rs.30,000/- to other two injured persons. In default of payment of the aforesaid compensation and fine, he was required to undergo further incarceration of one month for

each.

3. Learned counsel for the petitioner submitted that the petitioner has already completed more than seven months' incarceration. He further submitted that the petitioner is not in a position to pay the compensation of Rs. 1 lac to the LRs of the deceased and Rs.30,000/- to the other two injured persons and he has already undergone incarceration for one month, for each.

4. This Court passed the following order on 21.8.2018:

“In view of the above, there is no ground for interfering with the impugned order. The petition is without merits and is accordingly liable to be dismissed, along with pending application. However, the learned counsel for the petitioner submits, that the petitioner is afflicted with HIV for the last many years. He has placed on record a certificate, according to which, the petitioner is suffering from physical disability in the leg as well as from 25% temporary aural impairment; the deterioration of the limbs is because of the HIV affliction. He submits that the petitioner be released for the sentence having undergone. The Trial Court had convicted the petitioner and punished him for one year. In appeal, the sentence was reduced to six months. The petitioner has already undergone about 4 months' incarceration.

The petitioner has not paid either the fine amount or the compensation of Rs. 1 lac to the LRs of the deceased and Rs. 30,000/- to the other two injured persons. In default of payment of the aforementioned compensation and fine, he is required to undergo incarceration of one month, for each.

Considering the fact that the petitioner is suffering on account of the aforesaid medical ailments and his physical disability and that he has to take care of his three minor children, the petitioner's conviction under section 304A is reduced to five months.

In the default of payment of compensation, he shall undergo further incarceration, as directed."

5. In view of order dated 21.08.2018, this court has already modified the order on sentence of the Appellate Court as well as of the Trial Court, consequently, this Revision Petition is allowed in part. The conviction and the order on sentence recorded by the Trial Court and the Appellate Court stands modified and the compensation imposed upon the petitioner and the default sentence awarded to the petitioner shall remain modified to the extent as directed hereinabove.
6. The trial court record be sent back along with a copy of

this order.

7. A copy of this order be sent to Superintendent, Central Jail No. 13, Mandoli, Delhi for updating the jail record and the action, if any.

8. This Criminal Revision Petition is, accordingly, disposed of in the above terms.

CHANDER SHEKHAR, J

DECEMBER 10, 2018

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