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

+ **CRL.REV.P. 544/2018 & CRL.M.(BAIL) 1279/2018**

ROHIT

..... Petitioner

Through: Mr. Puneet Garg and Mr.
Nitesh Gupta, Advs.

versus

STATE

.... Respondents

Through; Mr.Ashish Dutta, APP with SI
Bachchu Singh, PS Keshav
Puram, Delhi

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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17.12.2018

1. The petitioner has filed the present criminal revision under Section 397/401 of Code of Criminal Procedure, 1973 (Cr.P.C.) against the impugned order dated 16.2.2018 passed by Special Judge, North-West, Rohini Courts, Delhi in Cri. Appeal No.08/2018 whereby upholding the judgment dated 11.8.2017 and order on sentence dated 18.12.2017 passed by learned Metropolitan Magistrate, North-West, Rohini Courts, Delhi in FIR No.753/2006, registered at Police Station Keshav Puram, Delhi under Sections 279/337/338/304-A of Indian Penal Code, 1860 (IPC).

2. The brief facts of the case are that the petitioner while driving a TATA Sumo bearing registration No.HR-55BT-2466 at a high speed in a rash and negligent manner jumped the red light and hit School Van bearing registration No.DL-2CN-8993 which was turning right

on a green signal and as a result thereof caused the death of Master Sunny and Sachin and simple hurt to Shubham Sharma and Vibha Aggarwal and grievous hurt to Sakshi Aggarwal and Naveen (driver), who were the passengers of the said Maruti Van.

3. The Metropolitan Magistrate vide judgment dated 11.8.2017 held the petitioner Rohit Kumar guilty of offence punishable under Section 304-A of IPC and convicted him accordingly for the same. The Metropolitan Magistrate vide order on sentence dated 18.12.2017 sentenced the petitioner as follows:

- “1. To suffer rigorous imprisonment of 6 months for offence under Section 279 of IPC.*
- 2. To suffer rigorous imprisonment of 1 month for offence under Section 337 of IPC.*
- 3. To suffer rigorous imprisonment of 3 months for offence under Section 338 of IPC.*
- 4. To suffer rigorous imprisonment of 2 years for offence under Section 304-A of IPC.”*

4. The petitioner thereafter filed the appeal, however, the appeal against the impugned judgment and order on sentence of the Metropolitan Magistrate was dismissed finding no infirmity or illegality in the impugned judgment as well as order on sentence vide judgment and order dated 16.2.2018 by the Appellate Court.

5. The learned counsel for the petitioner submitted that he is not challenging the conviction and is arguing only on the point of sentence. He further submitted that the present revision petition may be treated as a mercy petition as the petitioner is a Driver and is having old parents as well as a wife and 3 children to support who are

not able to maintain themselves and are on the verge of starvation since their financial position is very bad as the petitioner is in custody.

6. Learned counsel for the petitioner further submitted that the petitioner has already deposited the compensation amount of Rs.50,000/- as is evident from the para 10 of the judgment dated 16.2.2018 of the Appellate Court.

7. The Investigating Officer (I.O.) present in the Court stated that the petitioner is having no other criminal case pending against him.

8. The nominal roll has been perused. It is stated therein that the petitioner has already undergone 9 months and 27 days in custody as on 12.12.2018 and has earned remission of 2 months and 14 days as on 12.12.2018. The unexpired portion of the sentence is 11 months and 19 days.

9. The petitioner is having no other criminal case pending against him. The economic and the financial position of the petitioner is stated to be very precarious. The family is stated to be on the verge of starvation and that there is no previous history of conviction of the petitioner. The conduct of the petitioner in custody is reported to be satisfactory as per the Nominal Roll, hence, in the interest of justice, this Court deems it appropriate, to give him a chance of reformation.

10. Accordingly, having regard to the culpability of the petitioner and the facts and circumstances of this case, I am of the view that the ends of justice would be met if the sentence of the petitioner is modified to imprisonment for the period of 14 months under Section 304-A of IPC.

11. Consequently, the petition is allowed in part. The conviction order is upheld, however, the order on sentence is modified to the extent indicated hereinabove, i.e. imprisonment for a period of 14 months, under Section 304-A of IPC. The compensation imposed and default sentence awarded by the Trial Court shall remain unaltered. The Trial Court record be sent back along with the copy of this judgment. A copy of this judgment be also sent to the Superintendent, Tihar Jail, New Delhi for updating jail record.

12. The revision petition is disposed of in the above terms. CRL.M.(BAIL) 1279/2018 also stands disposed of.

CHANDER SHEKHAR, J

DECEMBER 17, 2018/rk