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

+ CRL.REV.P. 613/2018, CrI. M.(BAIL) 1162/2018, CrI. M.A.
28353/2018

SURESH CHANDER Petitioner
Through: Mr. Ranjit Singh, Adv.

versus

THE STATE (NCT OF DELHI) Respondent
Through: Mr. Amit Gupta, APP for State.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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24.07.2018

This revision petition impugns an order dated 24.04.2018 of the First Appellate Court upholding the conviction of the petitioner by the Trial Court under sections 279/304A IPC for having caused death of the victim-Binto @ Kishan Gopal due to rash and negligent driving.

The accusation against the petitioner is that on 02.04.2007 at about 10:20 pm in front of the American Express Building, Near CNG Pump, Mathura Road, Sarita Vihar, New Delhi, within the jurisdiction of PS Sarita Vihar, while the petitioner was driving the offending vehicle bearing registration no. HR-38N-3107, a dumper, in a rash and negligent manner, crushed a scooty – a two-wheeled vehicle and the rider. In the accident, the two wheeler rider and his vehicle were dragged for some distance by the offending dumper/truck. The victim died on the spot. The petitioner i.e. the driver of the offending vehicle, fled from the spot after the accident.

The impugned order has reasoned and rightly so, that if the petitioner

was not involved in the accident, there was no reason for him to flee from the spot. The vehicle was traced out on the basis of information given to the police by bystanders and two eye-witnesses. The registration number of the offending vehicle was also given to the police by the two eye-witnesses and thereafter it was tracked down. The mechanical inspection report corroborated that the damage caused to the offending vehicle was due to the impact of crushing the victim's two-wheeler. The owner of the vehicle had said that DW-1 was not the driver of the vehicle. The Trial Court and the impugned order both, disbelieved the plea of the defence that DW1 and not the accused was the driver of the vehicle because the owner of the vehicle never produced any document or material to prove or to show when DW1, instead of the accused (the appellant herein) was made a driver of the vehicle. No evidence was led by the petitioner to disbelieve the accusation against him.

The impugned order reasoned as under:

"21. Learned trial court has rightly observed that appellant/accused refused to undergo- TIP proceedings on the ground that the witnesses had seen him on the spot. However when allegedly the accident was not caused because of his fault, there was no reason for him to have run away from the spot.' The said contract has not been a plaint by him. The conduct of the appellant/accused in fleeing away from the place of incident corroborates the prosecution story which is, even otherwise been duly approved beyond the pales of reasonable doubt by the testimonies of.PW 1, Ct. Rakesh, PW 5, Shadi Lai, the mechanical inspector and the reports prepared by him, photographs Ex. PW 1 to PW12 (colly) and PW 9 ASI Satbir Singh. The refusal of the accused to undergo TIP on the ground that the witnesses had already seen him at the spot further corroborates the prosecution case and thus adverse inference has been rightly drawn

against him by the learned appellate court. Thus there is no dispute with respect to the identity of accused and the defence taken by the accused is not capable of inspiring any confidence. The defence witness, DW 1, appears to be planted defence witness in view of the fact that even PW 8. The owner of the vehicle, has not deposed about employing any conductor. Appellant/accused did not produce any document on record to show that DW 1 was assigned on duty on the dumper driven by him on the date and time of the accident in question. Thus no credibility can be given to the defence of the accused”.

There was no dispute about the identity of the accused as the driver of the offending vehicle. The defence that DW1 was the driver instead of him was never proven. If the petitioner was not involved in the accident, there was no reason to flee from the site of the accident.

In view of the above, this Court is of the view that no ground is made out to interfere with the impugned order. The Revision Petition is without merit and it, alongwith pending applications, is dismissed accordingly.

NAJMI WAZIRI, J.

JULY 24, 2018/acm