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

+ CRL.REV.P. 660/2018

SHRI KARAMBIR

..... Petitioner

Through: Mr. Triloki Pandit, Adv.

versus

STATE

..... Respondent

Through: Dr. M.P. Singh, APP for State with SI
Parminder Kumar, P.S. Janakpuri.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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07.08.2018

There are concurrent findings returned by the trial court as well as appellate court on appreciation of evidence. Petitioner has been convicted under Sections 279/304A IPC.

As per the prosecution, petitioner while driving bus bearing no. DL 1TB 3478 at about 11 pm on 1st October, 2009, hit a pedestrian near the traffic signal at Dabri Mor resulting in death of said pedestrian. The incident was witnessed by PW7 ASI Prahlad Singh who apprehended the petitioner after chasing the bus, as petitioner did not stop the bus. ASI Prahlad Singh removed the victim to Orchid Hospital and thereafter to DDU Hospital. Petitioner accompanied PW7 ASI Prahalad Singh.

As per the post-mortem report, victim died due to road accident. PW6 Atul Kumar is the registered owner of the offending vehicle. He deposed that petitioner was driving the bus no. DL 1TB 3478 on the fateful day. Post-mortem report was proved by PW 3 Dr. Santosh Kumar. Mechanical inspection report was proved by PW2 Devinder Kumar. FIR was proved as Ex. PW1/A by PW1 ASI Satbir Singh. PW5 HC Rajender Singh had accompanied the Investigating Officer ASI Hari Singh to the spot, who had recorded the statement of PW7 ASI Prahlad Singh, on the basis whereof FIR was registered. Trial court has found the testimonies of all the witnesses to be trustworthy and reliable; more particularly that of eye witness PW7 ASI Prahlad Singh and concluded that guilt of petitioner under Sections 279/304A stood proved.

Appellate Court also sifted and weighed the statements of witnesses including that of eye witness and concurred with the trial court.

It is noted by the trial court as well appellate court that petitioner had not disputed his presence at the spot nor had he disputed the presence of ASI Prahlad Singh at the spot. The plea taken by the petitioner that when he saw the victim lying on the road, he stopped the bus and thereafter helped PW7 ASI Prahlad Singh in removing the victim to hospital. PW7 ASI Prahlad

Singh demanded bribe of ₹15,000/- from him and when he declined to give the same he was implicated in this case, by the said police officer. This defence has not been found to be trustworthy by the trial court as well as appellate court in view of unshattered statement of eye witness PW7. It is trite law that in exercise of its revisional jurisdiction High Court need not to sift and weigh evidence and superimpose its findings of fact as if hearing an appeal. Revisionist has to show that procedural irregularity has been committed by the Courts below or that there is flagrant violation of principles of law resulting in miscarriage of justice. It is also noted that the defence of bribe was taken by the petitioner for the first time during the trial. Immediately, after release on bail, petitioner did not file any complaint before any superior authority.

To satisfy my conscience I have also perused the testimonies of witnesses more particularly of the eye witness and found that trial court as well as appellate court has rightly accepted the version of eye witness. The defence taken by the petitioner, on the face of it, appears to be an afterthought and has rightly been discarded. Petitioner's counsel has failed to point out any flagrant violation of legal principles nor could point out any procedural irregularity.

For the foregoing reasons, I do not find any illegality or irregularity in the impugned orders. Petition is dismissed.

A.K. PATHAK, J.

AUGUST 07, 2018

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