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

+ **CRL.REV.P. 672/2018**

BANE RAM

..... Petitioner

Through: Mr. Akshay Malik, Mr. Anirudh
Sharma and Mr. Vivek Bishnoi,
Advocates.

Versus

STATE

..... Respondent

Through: Mr. G. M. Farooqui, Additional
Public Prosecutor for State.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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09.08.2018

This Revision Petition impugns an order dated 31.05.2018 upholding the conviction of the petitioner under sections 279/304A IPC for a period of one month and two years respectively. Both the sentences were to run concurrently.

In a truck accident, two minor children were injured: one seriously and one fatally. The order is impugned on the ground that there is an inconsistency in the statement of Jasmal Khan (PW4), who had stated that he had seen the accused/driver in the Police Station whereas according to the testimony of Inspector R. N. Chaudhary (PW6) the Investigating Officer of the case, the witness (PW4) had called him from the Mehrauli Bus Terminal stating that the driver of the offending vehicle was seen there. The Investigating Officer reached the Bus Terminal, from where the said accused driver was apprehended and the latter disclosed his name as Bane Ram.

The learned counsel for the petitioner submits that there cannot be two places of identification of the accused/driver. The Court, however, is not persuaded by the said argument because the testimony of PW4 remains unshaken inasmuch as he has deposed that after the accident, the driver of the offending vehicle alighted from it, saw the accident and fled from the site. However, during this duration, PW4 had clearly seen the driver and had identified him, both in the Police Station as well as at the Bus Terminal. It is entirely possible that he may have identified the said person at the Bus Terminal from where he was taken to the Police Station on the same date and at the time of preparation of Arrest Memo, his identity was again established. The Trial Court has reasoned as under:-

“18. It is in the evidence of PW4 Jasmal Khan that on 09.09.2003 he was coming to village Chandan Hola from village Kharag when he reached at the gate of road, he saw one cycle coming from in front of his side and one truck no. HR38B 6097 was also coming from the side of said cycle and the said cycle was riding by two children belong to his village, names of the children were Imran and Man. It is further stated by PW4 that Imran was riding the cycle and Man was sitting on the carrier of the cycle. It is further stated by PW4 that in the meantime driver of the said truck was driving in a rash and negligent manner and he was in a very fast speed and hit against the cycle of the said children from backside and both children fell down from the cycle and the front right wheel of the truck ran over on the head of Irfan and he died at spot due to negligent driving. The said truck was stopped by driver at spot and after seeing the accident he ran away from spot. He had seen the accused at the spot. He had correctly identified the accused in the court. In the cross-examination of PW4 done on behalf of the accused also, the identity of the accused was not disputed.

19. In the instant case, from the evidence of PW4 Jasmal Khan, on whose statement FIR was registered, it has been proved that the driver/accused ran away from the scene of occurrence after incident. This witness properly identified him in the court, therefore, the identification of the accused is established.”

What emerges from the above is that the testimony of PW4 apropos the identity of the accused/driver remains unshaken. The sole ground for impugning the order of conviction and punishment is unsubstantiated.

In view of the above, the petition lacks merits and is accordingly dismissed.

NAJMI WAZIRI, J.

AUGUST 09, 2018

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