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

+ CRL.REV.P. 712/2018 and Crl. M.A. nos. 30407-08/2018

HARPAL SINGH

..... Petitioner

Through

Mr. Braham Singh, Ms. Seema Singh,
Mr. Rohit Vidhuti and Ms. Swati,
Advs.

Versus

STATE (NCT OF DELHI)

..... Respondent

Through

Mr. Izhar Ahmad, APP with SI Janak
Singh, P.S. NFC

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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21.08.2018

Petitioner was convicted by the trial court under Sections 304-A/279 IPC and sentenced to undergo simple imprisonment for six months for the offence under Section 304-A IPC; sentenced to fine of Rs.50/- for the offence under Section 279 IPC and in default of payment of fine to undergo simple imprisonment for seven days. Both the sentences were directed to run concurrently. Petitioner filed an appeal before the Sessions Court, which has been dismissed by the learned Additional Sessions Judge, vide order dated 13th August, 2018.

That is how, petitioner is before this Court by way of present petition under Section 397 Cr.P.C.

It is trite law that in exercise of its revisional jurisdiction, High Court is not to sift and weigh the evidence on record as if hearing an appeal. High Court cannot substitute a finding of fact as against what has been arrived at by the two courts below, on appreciation of evidence. Only gross perversity in the findings as well as the procedural illegality, if any, has to be considered. High Court can interfere only if petitioner is able to demonstrate any flagrant violation or misuse of procedure in the order or that the settled legal position had been ignored. Petitioner has failed to point out any perversity and/or illegality in the impugned order resulting in miscarriage of justice. It cannot be said that the findings returned by the courts below are without any evidence and/or are perverse.

There are concurrent findings of fact returned by the trial court and Appellate Court on appreciation of evidence. This Court is not to sift and weigh the evidence on record to substitute its findings against the concurrent findings returned by the courts below. During the course of hearing, no violation of legal principles has been pointed out nor is it a case based on no evidence. Learned counsel for the petitioner has vehemently contended that

one Arun Kumar was shown in the list of witnesses as public witness. He was dropped. There is no eye witness to the incident. Trial court as well as Appellate Court have illegally convicted the petitioner in absence of the eye-witness.

A perusal of record does not support this contention. PW1 HC Mohan Singh is the eye-witness to the accident. On his statement, FIR was registered. Learned counsel has tried to mislead this Court by contending that Shri Arun Kumar was the eye-witness and as he was not examined, petitioner could not have been convicted. PW1 HC Mohan Singh has corroborated the FIR, inasmuch as has categorically deposed that he saw a cluster bus of orange colour, coming from ring road side and going towards Julena side, at a high speed. One pulsar motorcycle was also coming from ring road side and going towards Julena Side. Driver of the bus suddenly took the said bus towards the left side without giving any signal as a consequence whereof bus hit the right side of the motorcycle, resulting in fall of the rider on road and coming under the rear left side wheel of the bus. He has also categorically deposed that he stopped the bus and driver came down from the bus. His name was revealed as Harpal Singh. A traffic jam took place due to the accident. While he started clearing the traffic,

petitioner fled away from the spot along with the bus. He has given bus number correctly, inasmuch as has identified the petitioner in Court. He has also deposed that Investigating Officer had apprehended the petitioner on his pointing.

For the foregoing reasons, petition is dismissed being devoid of merits. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

AUGUST 21, 2018
r.bararia