

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1144 of 2018

Arising Out of PS. Case No.-73 Year-2006 Thana- BOCHAHAN District- Muzaffarpur

Suraj Ram, s/o late Ratan Ram, r/o Mohalla- Hospital Campus, Laheriasarai,
P.S.- Laheriasarai, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate
		Mr. Arvind Kumar Sharma, Advocate
For the Opposite Party/s	:	Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-11-2019

Heard Mr. Dinu Kumar, learned counsel for the petitioner and Mr. Md. Arif, learned APP for the State.

2. The petitioner has moved the Court under Sections 397 and 401 of the Code of Criminal Procedure, 1973, against the order dated 09.08.2018 passed by the 1st Additional Sessions Judge, Muzaffarpur, in Criminal Appeal No.27 of 2017, by which the judgment of conviction and sentence dated 28.02.2017 passed by the Additional Chief Judicial Magistrate, 13th, Muzaffarpur, in G.R. No.1528 of 2006/ Trial No.616 of 2016 arising out of Bochaha P.S. Case No.73 of 2006 dated 18.06.2006, has been upheld.

3. The petitioner was charged being driver of the vehicle, which killed one person and injured others, and upon trial



was convicted under Sections 279 and 304-A of the Indian Penal Code (hereinafter referred to as the 'Code'). He was sentenced to undergo simple imprisonment of four months under Section 279 of the Code and rigorous imprisonment of two years and fine of rupees one thousand under Section 304-A the Code and, in default, to undergo further simple imprisonment for two months. Criminal Appeal No.27 of 2017 filed by the petitioner was also dismissed by judgment dated 09.08.2018.

4. Learned counsel for the petitioner submitted that First Information Report was lodged against unknown person and nobody had identified the petitioner. It was further submitted that postmortem report of the deceased was not brought on record, which raises doubt as to whether death occurred of any person. It was further submitted that the petitioner, only on suspicion has been made accused even without the Investigating Officer having been examined.

5. Learned APP submitted that PW 6 clearly identified the petitioner in Court and further PW 3 has stated that one lady, who was hit and injured, subsequently died in hospital. It was submitted that petitioner having been proved to be the driver of the vehicle, which has been identified, cannot be said to be innocent as death has occurred due to the deceased having been



hit by the speeding vehicle, which has been consistently stated by all the six witnesses.

6. Having considered the facts and circumstances of the case and submission of learned counsel for the parties, the Court finds that requirement of conviction under Sections 279 and 304-A of the Code have been fulfilled beyond reasonable doubt and the orders of the Court below and the reasoning given cannot be faulted. However, coming to the quantum, the period undergone by the petitioner, which is more than five months, seems to be adequate in the particular facts and circumstances of the present case.

7. Accordingly, the application stands disposed off without interfering in the order of conviction, but modifying the sentence to the period already undergone. The petitioner stands discharged of the liability of his bail bonds.

8. The lower court records be returned forthwith.

(Ahsanuddin Amanullah, J)

J. Alam/-

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