

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

CRL.REV.P. 696/2016 and CRL.M.A. 373/2018 (direction)

Reserved on : 05.08.2019

Date of Decision : 19.08.2019

IN THE MATTER OF:

SUKHPAL SINGH

..... Petitioner

Through: Mr. Anil Vyas, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Ms. Manjeet Arya, APP for State
with SI Ajay Kumar, P.S. Kashmere Gate

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

1. The present proceedings are instituted challenging the impugned order dated 14.09.2016, passed by ASJ (Central), Delhi arising out of CA No.41/16 whereby while dismissing the appeal, the court upheld the order dated 28.05.2016 and order on sentence dated 13.07.2016 convicting the appellant for an offence punishable under Section 279/304-A IPC. For the offence under section 304A IPC, the revisionist was directed to undergo SI for two years with a fine of Rs.10,000/-, in default thereof to undergo SI for a period of one month and for the offence under section 279 IPC, the revisionist was directed to undergo SI for six months with a fine of Rs.1,000/-, in default thereof to undergo SI for a further period of 10 days.

2. The facts of the prosecution, as noted by the Metropolitan Magistrate, are that:-

“It is the case of prosecution that on 23.04.2008 at about 4.35 a.m. near ISBT Flyover, Kashmere Gate, accused Sukhpal was found driving one Truck bearing no. HR-38F-9897 in a rash & negligent manner and while driving the vehicle in such manner hit against two persons namely Sharafat & Sanjay and caused their death. The present case was registered on the complaint of HC Rajpal. After completion of investigation charge-sheet was filed against the accused Sukhpal for the offences punishable under Section 279/304-A IPC.”

3. The petitioner pleaded not guilty and was charged for the offences punishable under Sections 279/304-A IPC was framed.

4. The prosecution examined total of 14 witnesses during the trial.

5. The prosecution had examined the complainant, HC Rajpal Singh as PW-6. He was an eyewitness to the incident. He along with PW-14 was on patrolling duty in the area and had seen the accident.

6. Mr. Bhanwar Singh was the registered owner of the truck No. HR-38F-9897. He was examined as PW-7. He deposed that the revisionist was driving the truck at the time of the accident.

7. A perusal of the records shows that the revisionist has not disputed his presence at the spot.

8. During the course of the arguments, learned counsel for the revisionist has argued that the accident did not occur in the manner as alleged by the prosecution. He contended that the scooter driven by the deceased had hit the truck in the middle on the left side. He submitted that the scooter was coming from the direction of Shyam Nath Marg

whereas the truck was moving from the side of Tis Hazari to ISBT. The contention of learned counsel for the revisionist is belied not only by the oral testimony of PW-6 and PW-14 but also by the mechanical inspection report of the truck as well as the photographs placed on the record.

9. Both the eyewitnesses have deposed that the scooter was hit from the backside. The mechanical inspection report was proved by ASI Devender Kumar, who was examined as PW-4. As per the mechanical inspection report, Ex. 4/A, there were scratches on the front axle beam on the front side of the truck. Even the photographs show that the body of the scooter was entangled under the front two wheels of the truck. Both the eyewitnesses have deposed that truck was driven in a rash and negligent manner. It was contended that no public witness joined the investigation. I do not find much force in the contention as the accident had occurred in early morning on 23.04.2008 at about 4:35 am. Even otherwise, PW-6 and PW-14, being on patrolling duty, witnessed the accident.

10. Dr. B.K. Sharma, who conducted the postmortem, was examined as PW-2. As per the postmortem, the injuries were antemortem in nature caused by blunt force impact, possible in road side accident. The cause of death was found to be hemorrhagic shock consequent upon grievous injuries.

11. Learned counsel for the revisionist has submitted that the revisionist has suffered the trial for 11 years. He has also submitted that he is the sole bread earner for his family consisting of his wife, three minor school going children aged about 13 years, 12 years and 4 years

respectively. He also submitted that the elder daughter who is aged about 13 years is suffering from Convulsion Disorder since birth. Her medical documents are placed on record.

12. A perusal of the Nominal Roll shows that as on 07.08.2019, the revisionist has undergone 1 year, 9 months and 18 days including period of remission and his unexpired portion of sentence 2 months and 12 days.

13. In the facts and circumstances of the case, the conviction of the revisionist is upheld. The sentence of the appellant is modified to the period already undergone subject to deposit of fine, if not already paid. In the event, the fine is not paid, the revisionist will undergo the sentence in default of payment of fine.

14. In view of the above, I find no infirmity or perversity in the impugned judgment and the concurrent findings reached by both the courts. As a result, the revision petition is allowed to the extent that revisionist is sentenced to the period already undergone.

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 19th, 2019
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