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

+ **CRL.REV.P. 837/2019 & CRL.M.(BAIL) 1436/2019**

SHIV KUMAR

..... Petitioner

Through Mr Yogesh Maini, Mr Amit Sharma,
Advocates.

versus

STATE

..... Respondent

Through: Mrs Kusum Dhalla, APP for State.
SI Vipin, P.S. Model Town.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.01.2020

1. The petitioner has filed the present petition impugning a judgment dated 10.07.2019 passed by the learned Additional Sessions Judge upholding the judgement dated 26.08.2017 passed by the learned Trial Court convicting the petitioner for committing offences punishable under Sections 279/337/338/304A of the IPC.
2. The learned Trial Court had sentenced the petitioner to undergo (i) rigorous imprisonment for a period of six months for an offence under Section 279 of the IPC; (ii) rigorous imprisonment for a period of six months for commission of an offence under Section 337 of the IPC; (iii) rigorous imprisonment for a period of two years for commission of an offence under Section 338 of the IPC; (iv) rigorous imprisonment for a period of two years for commission of an offence under Section 304-A of

the IPC; and (v) and rigorous imprisonment for a period of six months for commission of an offence under Section 427 of the IPC. In addition, the trial court also directed that compensation of ₹1,20,000/- be paid to the heirs of the deceased Mohd Shafi; ₹15,000/- to the injured Wajid; and ₹15,000/- to the injured Ram Kihaladi.

3. The learned ASJ acquitted the petitioner for commission of the offence under section 427 of the IPC but upheld his conviction for commission of other offences. The learned ASJ also accepted the contention that the petitioner does not have the means to pay the amounts as directed. The sentence awarded to the petitioner was also reduced considering his mitigating circumstances. A tabular statement indicating the sentences as reduced by the learned ASJ is set out below:-

Sl No.	Section	Sentence of rigorous imprisonment	Fine in rupees	Simple imprisonment in default of fine
1.	279 IPC	Three months	1000/-	One month
2.	337 IPC	Six Months	500/-	15 Days
3.	338 IPC	Eight Months	1000/-	One Month
4.	304-A IPC	One year	5000/-	Five months
		Total fine	7,500	Seven months and 15 days

4. All the aforesaid sentences were to run concurrently. In addition, the learned ASJ also reduced the fine imposed on the petitioner.

5. The petitioner was prosecuted pursuant to an FIR bearing No. 731/2003 registered with Police Station Model Town. The case of the prosecution was that an incident that had occurred at 8.15 p.m. at State Bank Colony Bus Stop G.T.K. Road, Delhi. The petitioner was driving a bus bearing No. DL-1PB-1537 and had struck two cyclists and thereafter had driven directly into a bus stand.

6. After evaluating the evidence on record, the Trial Court concluded that the petitioner was guilty of driving the bus in a rash and negligent manner and the commission of the alleged offences was established.

7. The learned ASJ considered the evidence on record and upheld the findings of the learned Trial Court.

8. The learned counsel appearing for the petitioner does not seek to contest the petitioner's conviction for the offences; however, he seeks that the sentence awarded to the petitioner be reduced. He states that he is a poor person and incarcerating him would adversely affect the welfare of his family members.

9. This Court is not persuaded to accept the aforesaid submission. It is seen that the sentence awarded by the learned Trial Court is commensurate with the offences for which the petitioner was convicted. Nonetheless, considering the mitigating circumstances, the learned ASJ had reduced the sentences considerably. There is no scope for reducing the sentence any further as all mitigating circumstances have already been considered by the learned ASJ. This Court finds no infirmity with the impugned order and

therefore does not consider it apposite to interfere with it.

10. The petition is, accordingly, dismissed. The pending application is also disposed of.

JANUARY 30, 2020
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VIBHU BAKHRU, J