

24.11.2022
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SB
Ct. No.236

CRR 184 of 2008

In the matter of : Joydeb Debnath

None is found present on behalf of the petitioner.

The matter was dismissed for default and was restored on 14th July, 2022.

This revisional application is of 2008, I do not find any cogent reason to adjourn this matter suo moto once again rather I propose to dispose of this application on merit based on the materials available with the record.

On 18.11.1997 at about 11.30 A.M. a mini bus no. WB-11-1719 while running down the Howrah bridge from west to east in a rash and negligent manner, knocked down a lady namely, Laxmi Devi Agarwal. She was admitted to Vishudhanand Hospital. A case was registered with North Port Police Station being NPPS Case No. 91 dated 19.11.1997 under Section 279/338 of the Indian Penal Code. Police took up investigation and submitted a charge sheet under Sections 279/338 of the Indian Penal Code against the driver of the vehicle. The driver being the accused persons stood trial before the learned Metropolitan Magistrate, 13th Court, Calcutta. The learned Trial Court after considering the evidence adduced by the prosecution recorded an order of conviction under Section 255(2) of Cr.P.C. and sentenced him to suffer imprisonment for three year. The said order of conviction dated 30.6.2000 was challenged before the learned Chief Judge, City Sessions Court in a criminal appeal which was dismissed by

learned Fast Track 4th Court and judgment was affirmed. Thereafter, Criminal Revision was preferred being C.R.R. 583 of 2004 which was dismissed but matter was remanded back for appropriate sentence which was complied with and learned Trial Court was pleased to pass an order of sentence directing the accused person to suffer rigorous imprisonment of six months and to pay fine of Rs.1,000/- for committing offence under Section 279 of I.P.C. with a default clause. The convict was further sentenced to suffer imprisonment for two years for committing offence under Section 338 of the I.P.C. and to pay fine of Rs.1,000/- with default clause subject to the provision of Sections 428 of Cr.P.C. The convict preferred an appeal challenging the order of conviction and sentence before the learned Chief Judge City Sessions Court, Calcutta which was registered as Criminal Appeal No. 89/07. Learned Appellate Court was pleased to maintain the order of conviction but altered the sentence. The convict was sentenced to suffer imprisonment of eighteen months for committing offence under Section 338 of I.P.C. instead of two years. Rest part of the order of sentence was affirmed.

Being aggrieved by and dissatisfied with the judgement of the learned appellate Court the accused person preferred this criminal revision.

I have carefully perused the impugned judgement of the learned appellate court as well as the judgement passed by the learned Trial Court and in my estimation there is no infirmity in the concurrent finding of learned Courts below that would warrant interference of this Court.

The revisional application is devoid of merit and is accordingly dismissed without any order as to costs

The copy of the order be sent down to the learned Trial Court for information and to take proper action to ensure the execution of the order of conviction if necessary.

The parties shall act upon the server copy duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon completion of requisite formalities.

(Siddhartha Roy Chowdhury, J.)