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NEUTRAL CITATION NO: 2022/DHC/002980



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

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ **CRIMINAL REVISION PETITION No.154 of 2019**

Between:-

LAL CHAND S/O SHRI RAM DEV, R/O C-6/37, GROUND FLOOR, GALI NO.3, SHADAT PUR EXTN., KARAWAL NAGAR, DELHI (PRESENTLY CONFINED IN CENTRAL JAIL NO.2, TIHAR, NEW DELHI)

.....PETITIONER

(By Shri Tahir Ashraf Siddiqui, Advocate)

AND

STATE (NCT OF DELHI)

..... RESPONDENT

(By Shri Amit Ahlawat, Additional Public Prosecutor for the State with Sub-Inspector Shailendra Kumar, Police Station: Govind Puri)

	Reserved on	:	22.07.2022
%	Pronounced on	:	02.08.2022

J U D G M E N T

1. The instant petition is filed under Section 397 of the Code of Criminal Procedure (in short 'Cr.P.C.') against the order dated 26.09.2018 passed in Criminal Appeal No.204163/2016 by the learned Additional Sessions Judge, District South-East, Saket Courts, New Delhi, upholding the judgment and modifying the order on

sentence dated 21.04.2014 and 07.06.2014 respectively passed by

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learned Metropolitan Magistrate in FIR No.25/2010 registered under Sections 279/304A of Indian Penal Code (in short 'IPC') at Police Station Govind Puri.

2. The case of the prosecution is that on receiving intimation on 29.01.2010, ASI Dilip Singh along with Constable Ishwar Singh reached at Majeedia Hospital. They were informed by PW-3, Ajay Kumar that at about 12:40 pm, he along with deceased Brahm Prakash, was going to school. They took the offending bus from Hamdard Nagar which was plying on route No.M-13. The back door of the bus was closed, so they entered from the front gate. When the bus reached at R.D. Marg, it was at a very high speed. The petitioner/driver took the turn at high speed and Brahm Prakash (deceased) fell down on the road. He came under the left rear wheel of the said bus. The police registered FIR No.25/2010 for offences punishable under Sections 279/304A IPC at Police Station Govind Puri. After registration of FIR, investigation was conducted and chargesheet was filed before the competent court.

3. The prosecution examined ten witnesses and was able to prove its case

4. The learned Metropolitan Magistrate convicted the petitioner for the offences punishable under Sections 279/304A IPC *vide* judgment dated 21.04.2014. The learned Metropolitan Magistrate, *vide* order on sentence dated 07.06.2014, sentenced the petitioner to undergo rigorous imprisonment for one year and fine of Rs.10,000/- for the offence under Section 304A IPC and in default of payment of fine, to undergo simple imprisonment for a period of one month. He was also sentenced to simple imprisonment for three months for offence under Section 279 IPC; and directed to pay compensation of

Rs.8,000/-, out of the fine imposed, to the father of the deceased

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Brahm Prakash, under Section 357 Cr.P.C. On same date, the petitioner was released on bail for a period of 30 days for filing appeal, on his furnishing a personal bond in the sum of Rs.20,000/- and one surety in the like amount.

5. Aggrieved by the judgment and order on sentence, the petitioner preferred an appeal under Section 374 Cr.P.C. The learned Additional Sessions Judge *vide* order dated 26.09.2018, dismissed the appeal and upheld the judgment of conviction passed by the learned Metropolitan Magistrate and the petitioner was directed to be taken into custody to serve the sentence.

6. Feeling aggrieved by the aforesaid orders, the petitioner has filed this instant revision petition on various grounds.

7. On 15.07.2022, when the matter came up for hearing before this Court, learned counsel appearing on behalf of the petitioner submitted that the petitioner has already undergone about one year sentence but since he could not deposit the amount of fine, he has to undergo the imprisonment of three months in default of non-deposition of fine. The learned counsel, on instructions from his client, further submitted that in case his revision petition is considered favourably on the question of sentence already undergone, he would not like to press the same on merits.

8. Heard, learned counsel appearing on behalf of the petitioner as well as learned Additional Public Prosecutor for the State; and perused the record.

9. From the evidence of PW-3, Ajay Kumar and the other material available on record, this court finds that the conviction of the petitioner is unimpeachable. The learned trial court and the first

appellate court have not committed any error in appreciating evidence. The conviction of the petitioner is, therefore, maintained.



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10. The latest nominal roll suggested that the petitioner has already completed entire period of sentence except 23 days. It is also noticed that as per the judgment, the petitioner was to pay a fine of Rs.10,000/- and in default of fine, three months simple imprisonment was directed.

11. In view of the aforesaid, instant revision against the order of conviction is dismissed, however, keeping in mind the fact that the petitioner has already undergone almost entire period of sentence (except 23 days); he was enlarged on bail by this court on 12.03.2019 and is presently stated to be aged about 64 years, this court finds it appropriate to reduce the sentence to the period already undergone. His bail bond and surety stand discharged, subject to payment of fine.

12. With the above directions, the revision is disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

AUGUST 02, 2022
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