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

Reserved on: 03rd August, 2023

Decided on: 11th August, 2023

+ **CRL.REV.P. 348/2009**

ROHTAS

..... Petitioner

**Through: Mr. Sudarshan Rajan and
Mr. Ramesh Rawat,
Advocates.**

V

STATE OF NCT OF DELHI

..... Respondent

**Through: Mr. Utkarsh, APP for the
State with SI Dhananjay
Dubey, P.S. Krishna Nagar.**

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT

1. The petitioner was put to trial arising out of FIR bearing no 33/03 registered at police station Krishna Nagar under sections 279/304A of Indian Penal Code, 1860 (hereinafter referred to as “IPC”) on allegations that the petitioner on 03.02.2003 at 6.10 pm at road no 57 opposite Swaran Cinema, Delhi within the jurisdiction of PS Krishna Nagar was found driving the vehicle bearing registration no.DL-1PB-0717 in a rash and negligent manner so as to endanger



the human life and personal safety of others and while doing so hit against Mukut Lal when he was crossing road and caused his death not amounting to culpable homicide. The petitioner was given notice under section 251 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “**the code**”) to which the petitioner pleaded not guilty and claimed trial. The prosecution examined seven witness including eye witness Girish Kumar as PW1. The Statement of accused was recorded under section 313 of the Code wherein the appellant pleaded innocence and false implication but did not lead defence evidence. The Court of Sh. Raj Kumar, Metropolitan Magistrate, Karkardooma Courts, Delhi (hereinafter referred to as “**the trial court**”) vide judgment dated 22.11.2007 convicted the petitioner for offences punishable under section 279/304A IPC primarily relying on testimony of eye witness Girish Kumar. The relevant part of the impugned judgment is reproduced verbatim as under:-

8. In order to prove that the accused was driving the vehicle on the date, time and place, the most prominent, star witness and the eye witness of the incident is PW1 Girish Kumar who has categorically submitted that on 3.2.2003 he alongwith his father were coming from Tis Hazari courts in the bus in question and accused present in the court on that



day was driving the bus in a rash and negligent manner. PW1 has categorically further submitted that at about 6.10 p.m. When the bus reached opposite Swaran Cinema bus stop, he alongwith his father were in the process of getting down from the bus, the accused shouted "*Jaldi Utro Jaldi Utro*". His father boarded down from the bus and when he was crossing the road in front of the bus, the accused started the bus in a rash and negligent manner as a result of which the accused hit his father and his father fell down from the bus, the blood started oozing out from the body of the victim and he was taken to Sri Ram Hospital where the doctor declared the victim as brought dead. PW1 has proved in his statement on record as PW1/A, the seizure memo of the bus as Ex.PW1/B, the seizure memo of the driving licence as Ex.PW1/C, personal search memo of the accused as Ex.PW1/D, the arrest memo as Ex.PW1/E, identification of the dead body as Ex.PW1/F. PW1 in the cross-examination has categorically denied that his father was unhealthy and fell down in front of the bus due to vertigo. It is pertinent to mention here that the accused has been unable to bring on record any evidence to show that the victim was suffering from vertigo and to prove his above said contention. Rather, in the cross-examination PW1 has again strengthened the prosecution story that his father was 70 years old and was hale and hearty.

10. Further, for establishing the factum of rashness and negligence on the part of the driver/accused while driving the impugned vehicle, the alleged eye witness testified that he alongwith his father were returning to their house from Tis Hazari Courts and when the blue line bus bearing no.DL-1PB-0717 reached opposite Swaran Cinema bus stop, he alongwith his father were in the process of getting down the bus when the accused shouted "*Jaldi Utro Jaldi Utro*". PW1 as well as the victim boarded down from the bus and when the victim was crossing the road rent of the bus the accused present in the court started the bus in a rash and negligent manner as a result of which the accused



hit the victim, the victim fell down from the bus, the blood started oozing out from his body and he was declared brought dead in Sri Ram Hospital.

11. Further, It is observed that PW2 Dr. Aakash Jhangee, junior specialist, forensic medicine civil hospital mortuary who conducted the post mortem has categorically submitted that all the injuries were anti-mortem in nature consistent with road traffic accident as alleged and cause of death was cumulative effect of hamerrogic shock and spinal shock consequent to blunt force impact to chest, abdomen, pelvis and spinal coloum.

12. The defence counsel contended that the deceased was trying to step down from the moving bus and as such it cannot be said that the driver of the vehicle was rash and negligent. But, the above said contentions of Ld. Counsel for the accused does not hold much water when the entire evidence and particularly the evidence of the eye witness PW1 is gone through. PW1 has specially stated that first of all the driver asked the victim to step down swiftly and when the victim was crossing the road in front of the bus, the accused moved the bus in a rash and negligent manner so as to hit the victim and take away his precious life. The testimony of the doctor PW2 is in consonance with that of PW1 and testifies the fact that the driver of the vehicle was driving the offending bus in a rash and negligent manner, thus, proving the ingredient no.2. It is also a well settled principle of law that the rashness and negligence on the part of the driver is basically an absence of due care and not only a negligence on the part of the driver.

15. Therefore, it is observed that all the necessary ingredients mentioned above are proved by the prosecution beyond reasonable doubt for proving both the offences alleged through direct evidence as well as with the corroborative documentary & circumstantial evidence on record. Prosecution has been successfully able to prove



beyond any shadow of doubt, all the three ingredients which are mutually dependent on each other for proving the guilt of the accused that the accused was driving the impugned vehicle at the relevant date, time and place, in a rash and negligent manner and hit the victim and by that impact the victim fell down and succumbed to injuries meaning thereby all the ingredients were proved *causa-causans*.

16. Thus, in nut-shell, on the basis of above observations on law and facts, the court is of the considered view, that the prosecution has successfully proved the offences u/s. 279/304A IPC against the accused Rohtash through ocular evidence with the documentary evidence on record beyond reasonable doubt. Therefore, accused Rohtash s/o Natthu Ram Is convicted for the charges levelled against him for the offences punishable u/s.279/304A IPC.

1.1 The trial court vide order on sentence dated 23.11.2007 sentenced the petitioner with RI for 3 months and a fine of Rs.500/- and in default of fine to undergo further RI for one month for offence punishable under section 279 IPC and with RI for 1 year and a fine of Rs.500/- and in default of fine to undergo further RI for one month for offence punishable under section 304A IPC. Both the sentences were ordered to be run concurrently

2. The petitioner being aggrieved by judgment dated 22.11.2007 and order on sentence dated 23.11.2007 filed Criminal Appeal bearing no.15/08 titled as **Rohtas V State** which was dismissed by



the court of Sh. V. K. Khanna, Additional Sessions Judge, Karkardooma Courts, Delhi (hereinafter referred to as **“the appellate court”**) vide order dated 20.05.2009 (hereinafter referred to as **“the impugned order”**). The appellate court like trial court also primarily relied on testimony of eye witness PW1 Girish Kumar. The relevant portion of impugned order dated 20.05.2009 is reproduced verbatim as under:-

5. In the instant case Pw1 Girish Kumar deposed that on 3.2.2003 he alongwith his father were coming from Tis Hazari Court in a bus bearing No.DL-IP-B-0717 to their house. Accused was driving the said bus in a rash and negligent manner. Pw1 deposed that he alongwith passengers told the driver not to drive the said bus in fast, rash and negligent manner. At about 6.10p.m. when the bus reached opposite swaran cinema bus stop Pw1alongwith his father were in the process of getting down from the bus , then accused shouted " Jaldi utro jaldi utro". Pw1 got down from the bus and his father also got down from the bus. His father was crossing the road in front of the bus of accused and accused started the bus in a rash and negligent manner as a result of which accused hit his father who fell down from the bus. Pw1 shouted and saw that blood was oozing out from the body of his father. Meanwhile police officials came at the spot and took his father to Shri Ram Hospital where Doctor told that his father had expired and local police came there and recorded his statement Ex. Pw1/A bears his signature at point A." As far as the site plan is concerned, Pw1 have deposed about the place of occurrence i.e. opposite swaran cinema bus stop. The testimony of Pw1 to this effect has remained un-rebutted and there is nothing in the cross examination to show that it



was not the place of occurrence. The appellant has failed to show that the deceased had slipped and injured while getting down from moving bus or he had fallen due to vertigo(chakkar). Pw1 has deposed in the cross examination that at first his father got down from the bus and when his father got down from the bus, the bus was stable. He denied that his father was unhealthy and fell down in front of the bus due to vertigo. There is nothing in the cross examination to impeach the veracity of complainant/Girish Kumar who was accompanying his father at the time of incident that the bus was not driven in a rash and negligent manner. There is nothing on record to show that the injured had not told the driver not to drive in a fast, rash and negligent manner. The veracity of Pw1 has not been impeached that the appellant had not started the bus in a rash and negligent manner when the deceased was crossing the road. No fault can be found with the reasoning given by the trial court. Trial court has rightly observed that the presence of Pw1 and Pw7 Ct. Devender at the spot has not been rebutted. It was also observed that the injuries on the body of deceased were absolutely tallying with the version stated by the witnesses regarding the direction of hitting the vehicle and the damage on the vehicle shown through the mechanical inspection also strengthened the version stated by eye witness to prove that his depositions do inspire confidence. Pw2 Doctor Aakash Jhanjee has opined that the injuries were anti mortem in nature consistent with the road traffic accident as alleged and case of death was cumulative effect of haemorrhage shock and spinal shock consequent to blunt force impact to chest, abdomen, pelvis and spinal column. On considering the submissions made at bar and trial court record, this court finds no infirmity in the impugned judgment. Conviction of the appellant u/s 279/304-A IPC is upheld.

3. The petitioner challenged the judgment dated 22.11.2007 and order on sentence dated 23.11.2007 passed by the trial court and



impugned order passed by the appellate court by filing present petition on grounds that judgment dated 22.11.2007 and order on sentence dated 23.11.2007 passed by the trial court and impugned order passed by the appellate court are contrary to law. PW1 Girish Kumar was interested witness being son of the deceased whose testimony is not corroborated by any independent witness. The investigating officer has not been examined. The accident happened due to negligence of the deceased as could not control himself. The petitioner is first time offender and is not a previous convict. It is prayed that the petition be allowed and judgment dated 22.11.2007 and order on sentence dated 23.11.2007 passed by the trial court and impugned order passed by the appellate court be set aside.

4. The counsel for the appellant argued that the petitioner was not effectively represented before the trial court and relied on **Salamat Ali V State**, 2010 SCC OnLine Del 1343. The testimony of the PW1 Girish Kumar cannot be relied on as he has given two contradictory versions of the accident. The petitioner was not driving the offending vehicle rashly and negligently as the deceased suddenly crossed the road and was hit by offending vehicle and relied on **Mahadeo Hari**



Lokre V State of Maharashtra, (1972) 4 SCC 758. The investigating officer did not conduct scientific investigation.

4.1 The counsel for the petitioner also argued that the petitioner is under litigation in respect of present FIR for last about 20 years and his antecedents are clear. The petitioner is aged about 50 years and is sole bread earner for his family. The petitioner has already undergone imprisonment for a period of three months. The petitioner prayed that sentence of the petitioner be modified to the period already undergone and relied on **Nanak Chand V State, 2015 SCC On Line Del 13440** and **Paul George V State of NCT of Delhi, (2008) 4 SCC 185.**

5. Section 279 IPC deals with rash driving or riding on a public way. It reads as under:-

279. Rash driving or riding on a public way.—Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Section 304A IPC deals with causing death by negligence. It reads as under:-



304A. Causing death by negligence.—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

5.1 The Supreme Court in Mohammed Aynuddin @ Miyan V

State of Andhra Pradesh, (2007)7SCC72 observed as under:-

A rash act is primarily an over hasty act. It is opposed to a deliberate act. Still a rash act can be a deliberate act in the sense that it was done without due care and caution. Culpable rashness lies in running the risk of doing an act with recklessness and with indifference as to the consequences. Criminal negligence is the failure to exercise duty with reasonable and proper care and precaution guarding against injury to the public generally or to any individual in particular. It is the imperative duty of the driver of a vehicle to adopt such reasonable and proper care and precaution.

6. The trial court as well as the appellate court primarily relied on testimony of PW1 Girish Kumar who as per prosecution was eye witness of the accident and happened to be son of the deceased. A witness in a criminal trial has pivotal role to play and is an important component in determining truth. A witness generally has relevant information about commission of crime and due to this reason the role of a witness is paramount in the Criminal Justice System. The judicial process needs witnesses to give evidence so that courts can



reach at a verdict or decision. The witness by deposing in courts assists the court in discovering truth. The witnesses are important partner in the dispensation of justice. The Supreme Court in **Mahender Chawla V Union Of India**, Writ Petition (Criminal) No.156/2016 decided on 05th December, 2018 highlighted importance of witness in a trial and observed as under:-

Witnesses are important players in the judicial system, who help the judges in arriving at correct factual findings. The instrument of evidence is the medium through which facts, either disputed or required to be proved, are effectively conveyed to the courts. This evidence in the form of documentary and oral is given by the witnesses. A witness may be a partisan or interested witness, i.e., a witness who is in a near relation with the victim of crime or is concerned with conviction of the accused person. Even his testimony is relevant, though, stricter scrutiny is required while adjudging the credence of such a victim. However, apart from these witnesses or the witnesses who may themselves be the victims, other witnesses may not have any personal interest in the outcome of a case. They still help the judicial system.

7. The testimony of PW1 Girish Kumar reflects that PW1 Girish Kumar along with the deceased get down from the offending vehicle i.e. bus. The deceased was crossing road in front of the offending vehicle i.e. bus which was being driven by the petitioner and when the deceased was crossing the road in front of the offending vehicle



i.e. bus then the petitioner started the bus in a rash and negligent manner and hit the deceased. The defence in cross examination of PW1 Girish Kumar attempted to establish although unsuccessfully that the deceased had fallen down on road due to old age and vertigo. PW1 Girish Kumar denied suggestion that the deceased became unhealthy and fell down in front of the bus due to vertigo but deposed that deceased was 70 years old and was healthy. PW1 Girish Kumar also denied suggestion that the accident had not taken place due to rash and negligent driving of the petitioner and the deceased had expired due to collusion of the bus because of vertigo and of old age. The testimony of PW1 Girish Kumar proved that the petitioner was negligent in taking care towards the deceased which is expected from a person of ordinary and normal prudence. The petitioner was expected to take appropriate care towards the deceased when he was crossing the road after getting down from bus being driven by the petitioner. The petitioner suddenly started the offending vehicle i.e. bus with taking care about the deceased when he was crossing road in front of bus. The testimony of PW1 Girish Kumar amply proved that the petitioner caused the death of the deceased on account of his rash



and negligent act. The testimony of PW2 Dr. Aakash Jhangee, Junior Specialist, Forensic Medicine, civil hospital mortuary who conducted the post mortem proved that injuries were anti mortem in nature consistent with road traffic accident. There is no factual force in argument advanced by the counsel for the petitioner that he was not negligent while driving the offending vehicle i.e. bus.

8. The petitioner in the petition stated that the testimony of PW1 Girish Kumar cannot be relied on as he was interested witness being son of the deceased and further independent person was not included in investigation. In a criminal trial, it is the quality and not the quantity of evidence, which matters for proving, or disproving a fact and emphasis is laid on quality of evidence rather than multiplicity or plurality of witnesses. The testimony of solitary witness should be cogent, credible and trustworthy. It was observed in **Kuna @ Sanjaya Behera V State of Odisha**, 2017 SCC Online Supreme Court 1336 that the conviction can be based on the testimony of single eye witness if he or she passes the test of reliability and that is not the number of witnesses but the quality of evidence that is important. If the investigation did not include any other person in



investigation, it is not fatal to case of prosecution as the testimony of PW1 Girish Kumar is credible, cogent and does inspire confidence and there is no reason to discard testimony of PW1 Girish Kumar which is otherwise narrative of true facts.

9. PW1 Girish Kumar is son of the deceased and as such PW1 Girish Kumar and deceased were directly related to each other. The witnesses who are related to the victim are as competent to depose the facts as any other witness and mere relationship does not disqualify a witness. But as a matter of caution the testimony of interested witness is required to be carefully scrutinized and appreciated. The Supreme Court in **Dalip Singh & Others V State of Punjab**, (1954) 1 SCR 145 observed as under: -

Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true, when feelings run high and there is personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often a sure guarantee of truth.

9.1 The Supreme Court in **Masalti V State of UP**, (1964) 8 SCR 133 also observed as under:-



There is no doubt that when a criminal court has to appreciate evidence given by witnesses who are partisan or interested, it has to be very careful in weighing such evidence. Whether or not there are discrepancies in the evidence; whether or not the evidence strikes the Court as genuine; whether or not the story disclosed by the evidence is probable, are all matters which must be taken into account.

But it would, we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses..... The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to failure of justice”.

There is no proposition in law that relatives are to be treated as untruthful witnesses.

If the evidence of an eyewitness, though a close relative of the victim, inspires confidence, it must be relied upon without seeking corroboration with minute material particulars. It is no doubt true that the Courts must be cautious while considering the evidence of interested witnesses.

9.1.1 The Supreme Court in *Kartik Malhar V State of Bihar*, (1996) 1 SCC 614 also opined that a close relative who is a natural witness cannot be regarded as an interested witness and in *Thoti Manohar V State of Andhra Pradesh*, Criminal Appeal No 1739/2007 decided on 15th May, 2012 also observed as under:-

We find that the evidence of the injured witnesses who are close relatives to the deceased have really not embellished or exaggerated the case of the prosecution. They are the most natural witnesses and there is nothing on record to



doubt their presence at the place of occurrence. By no stretch of imagination, it can be stated that the presence of the said witnesses at the scene of the crime and at the time of occurrence was improbable. Their version is consistent and nothing has been suggested to bring any kind of inherent improbabilities in their testimonies.

9.2 PW1 Girish Kumar happened to be with the deceased on day and time of accident as they were coming back home together from Tis Hazari Courts. If PW1 Girish Kumar is related to the deceased being his son, it does not mean that his testimony is liable to be rejected on this ground. In criminal cases court should not adopt mechanical approach in appreciating evidence of prosecution. The testimony of PW1 Girish Kumar is only required to be scrutinized with care and caution. The testimony of PW1 is trustworthy, credible and narrative of true facts pertaining to accident. The plea of the petitioner that the testimony of PW1 Gulshan Kumar being interested witness cannot be relied on is without any legal substance.

10. The arguments advanced by the counsel for the petitioner that the petitioner was not properly represented during trial and no scientific investigation was conducted are without any basis under given facts and circumstances of case.

11. The trial court and appellate court passed the judgment dated



22.11.2007 and order on sentence dated 23.11.2007 and impugned order after considering relevant factors and proper appreciation of evidence and are well reasoned. The judgment dated 22.11.2007 and order on sentence dated 23.11.2007 passed by the trial court and impugned order passed by the appellate court do not call for any interference.

12. The counsel for the petitioner argued that the sentence of the petitioner be modified to extent that he be sentenced to imprisonment for period already undergone and in the alternative, petitioner be released on probation petitioner by arguing that the petitioner is first time offender and now aged about 50 years. The petitioner is not previously convict and no other case is pending against him. The petitioner is sole bread earner for his family comprising 4/5 members.

13. Sentencing is an important task assigned to the courts in administration of criminal justice for future prevention of crime. It is duty of the courts to impose sufficient punishment after considering gravity of offence and its modalities of execution .The Supreme Court in **Dalbair Singh V State of Haryana**, (2000) 5 SCC 82 observed as under:-



Sentencing is an important task in the matters of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straitjacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles: the twin objective of the sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances.

The principle of proportionality in sentencing a crime-doer is well entrenched in criminal jurisprudence. As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime-doer. The court has to take into consideration all aspects including social interest and consciousness of the society for award of appropriate sentence.

14. Any accident can be considered as unanticipated incident. The accident causing death of a person may force entire family in destitution if the accident results into death of a person who is sole bread earner for his family. The Supreme Court in **Dalbir Singh** guarded against leniency in relation to the drivers found guilty of rash driving and observed as under:-

When automobiles have become death traps any leniency shown to drivers who are found guilty of rash driving would be at the risk of further escalation of road accidents. All those who are manning the steering of automobiles, particularly professional drivers, must be kept under



constant reminders of their duty to adopt utmost care and also of the consequences befalling them in cases of dereliction. One of the most effective ways of keeping such drivers under mental vigil is to maintain a deterrent element in sentencing sphere. Any latitude shown to them in that sphere would tempt them to make driving frivolous and frolic.

Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the PO Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion..... He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of vehicle he cannot escape from jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles.

नित्यमेव जयते

14.1 In *State of Karnataka V Muralidhar*, (2009) 4 SCC 463 the respondent caused fatal accident. The Trial Court sentenced the respondent to rigorous imprisonment for one year with fine for offence under Section 304A IPC. The appeal was dismissed by the Sessions Court. The High Court waived custodial sentence and only



fine was imposed. The Supreme Court referred to the principles related with the offence under Section 304A IPC and also the problems associated with the road traffic injuries and found absolutely no reason that the High Court waived the custodial sentence awarded to the respondent. The impugned judgment of the high Court was set aside and that of the Trial Court restored. The Supreme Court in **Thangasamy V State of Tamil Nadu**, Criminal Appeal No 698 of 2010 decided on 20th February, 2019 also referred **Dalbir Singh**. The Supreme Court in **State of Punjab V Saurabh Bakshi**, (2015) 5 SCC 182 also observed as under:-

Before parting with the case we are compelled to observe that India has a disreputable record of road accidents. There is a nonchalant attitude among the drivers. They feel that they are the “Emperors of all they survey”. Drunkenness contributes to careless driving where the other people become their prey. The poor feel that their lives are not safe, the pedestrians think of uncertainty and the civilized persons drive in constant fear but still apprehensive about the obnoxious attitude of the people who project themselves as “larger than life”. In such obtaining circumstances, we are bound to observe that the lawmakers should scrutinise, relook and revisit the sentencing policy in Section 304-A IPC. We say so with immense anguish.

15. The petitioner due to rash and negligent driving caused death of the deceased whose untimely death must have caused irreparable



loss to the family. The negligent act of the petitioner resulted into loss of one precious human life. The petitioner was driving a heavy and commercial vehicle i.e. bus and was supposed to take care towards pedestrians on the road.

15.1 The Coordinate Bench of this court **Nanak Chand V State**, 2015 SCC OnLine Del 13440 as relied by the counsel for the petitioner after considering that the accident took place about 20 years ago, the conduct of the petitioner in the Intervening period i.e. participation in the trial and being not involved in any other crime reduced the sentence for the period already undergone. The Supreme Court in **Paul George V State of NCT OF Delhi**, (2008) 4 SCC 185 also cited by the counsel for the petitioner, the offender was released on probation by considering that the litigation was pending for 20 years and the Offender was having good career except for the conviction for offences underp sections 279/304A IPC.

15.2 The accident happened to be in year 2003. The petitioner/convict is stated to be facing trial and other legal proceedings arising out of FIR bearing no.33/2003 since 2003. The petitioner is a poor person and now aged about 50 years. The



petitioner is the only bread earner of family comprising of 4/5 persons. The petitioner is first time offender and his antecedents are clear. The petitioner already remained in custody for about three months. After considering all facts and by maintaining the conviction awarded to the petitioner, the sentence of the petitioner is modified to the extent of sentence for the period already undergone. The petitioner is also directed to deposit fine before the concerned trial court if not paid by the petitioner. The petitioner is also directed to pay Rs. 25,000/- as cost and same be deposited in Armed Forces Battle Casualties Welfare Fund, Canara Bank, A/c No. 90552010165915 within 15 days and receipt thereof be produced in court within 07 days thereafter. Bail Bond cancelled. Surety discharged.

16. The petition is accordingly disposed of along with pending application if any.

DR. SUDHIR KUMAR JAIN
(JUDGE)

AUGUST 11, 2023
sk/n/sd