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

+ CRL.REV.P. 186/2017 and Crl. M.B. No. 458/2017

AMIT ARORA

..... Petitioner

Through : Mr. Sunil Kumar, Adv.

Versus

STATE (NCT OF DELHI)

..... Respondent

Through :Ms. Manjeet Arya, APP with SI  
Amit Kumar, P.S. Connaught Place

**CORAM:**

**HON'BLE MR. JUSTICE A.K. PATHAK**

**ORDER**

% **31.08.2017**

Petitioner was convicted by the trial court under Sections 279/304-A/337 IPC. He was sentenced to undergo rigorous imprisonment for six months under Section 279 IPC, six months under Section 337 IPC and one year under Section 304-A IPC. He was also directed to pay compensation of ₹2,00,000/- to the LRs of deceased Ashwani and compensation of ₹5,000/- each to the injured Sunil and Raman. All the sentences were directed to run concurrently. It was further ordered that in case of default of payment of compensation, petitioner shall undergo further simple imprisonment for six

months.

Petitioner preferred an appeal before the Sessions Judge, which has been disposed of vide order dated 22<sup>nd</sup> February, 2017 whereby conviction of the petitioner has been upheld while sentence compensation of ₹2,00,000/- has been reduced to ₹50,000/-.

That is how petitioner is before this court by way of present petition under Section 397 Cr.P.C.

Learned counsel for the petitioner contends that compensation has already been deposited in the trial court.

There are concurrent findings of guilt of petitioner, returned by the two courts on appreciation of evidence. It is trite law that High Court, in exercise of its power under Section 397 Cr.P.C., will refrain from scrutinize the evidence on record so as to superimpose its own findings of fact as against the concurrent findings of facts returned by the courts below and relegate the supervisory jurisdiction to the appellate jurisdiction. High Court will step in only if there is a flagrant violation of any legal principle or there is gross perversity in miscarriage of justice. It is not the case that conviction is based on no evidence, inasmuch, as during the course of hearing the learned counsel has given up the challenge to conviction of petitioner on

merits. He has only prayed for leniency in sentences.

As per the prosecution, petitioner while driving Indica Car bearing registration no. DL-3CAF-1508 in a rash and negligent manner had struck against three pedestrians, namely, Ashwani Kumar, Sunil Kumar and Raman Kumar on 30<sup>th</sup> September, 2006 at about 1:00 am at Outer Circle, Connaught Place, Near Minto Road red light, New Delhi, thereby causing simple injuries on the person of Sunil Kumar and Raman Kumar and fatal injuries to Ashwani Kumar. It is not the case that petitioner was driving the vehicle under the influence of liquor.

Learned counsel for the petitioner submits that petitioner is aged about 37 years and has no past criminal record. At the time of incident he was 26 years of age. Petitioner is in incarceration for more than six months. His jail conduct is satisfactory. Petitioner has a family comprising of his wife and one child aged about five years. Petitioner belongs to a poor family, inasmuch as, his wife is jobless. Education of the child is also suffering since petitioner is in incarceration for the last six months. The whole family is being in penury.

In Mahender Singh vs. State, 2016 (1) JCC 58, a Bench of coordinate jurisdiction has held that “sentencing of an accused in a criminal case is a

serious exercise and there cannot be two opinions about the fact that the quantum of sentence imposed is required to be in consonance with the gravity of the offence. Punishment in criminal cases is both punitive and reformatory. The punitive aspect of sentencing deals with punishment meant for deterrence from repeating such acts in future. The reformatory aspect of sentencing cares for providing opportunity to the accused to repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment, a Court is required to weigh the degree of culpability of the accused, the effects of the crime alleged on the society at large and the desirability of imposing a lesser sentence. A balance between the interest of the individual and the overall concern of the society is required to be struck.”

The accident took place eleven years ago. Petitioner has faced the agony of trial for about eleven years. Sufficient time has elapsed since then. During the trial, petitioner was on bail. During this period of eleven years, no complaint in respect of rash and negligent driving was reported against him.

Considering the facts and circumstances of this case, as noted above, while upholding conviction of the petitioner under Sections 279/337/304-A

IPC, his sentences are reduced to the period already undergone by him. Sentence of compensation is maintained. Petitioner be released from jail, if not required in any other case and subject to producing proof of deposit of compensation.

Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

Dasti.

**A.K. PATHAK, J.**

**AUGUST 31, 2017**

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