IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment reserved on : 02.12.2025*
Judgment pronounced on : 03.02.2026

\+ **CRL.REV.P. 775/2014**

AMIT SHARMA .....Petitioner

versus

STATE (NCT OF DELHI) .....Respondent

Advocates who appeared in this case:

For the Petitioner : Mrs. Kajal Chandra, Ms. Hatneimawi, Mr. Ananyay Bhardwaj and Mr. Suyash Swarup, Advs.

For the Respondent : Mr. Raj Kumar, APP for the State with SI Navneet Yadav, PS Connaught Place.

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed challenging the judgment dated 05.12.2014 (hereafter '**impugned judgment**'), passed in CA No. 73/14, whereby the learned Additional Sessions Judge ('**ASJ**'), Patiala House Courts, New Delhi upheld the judgment of conviction dated 21.10.2013 and reduced the sentence awarded by order on sentence dated 25.06.2014 in the case arising out of FIR No. 651/2004 ('**FIR**'), registered at Police Station Connaught Place.

2. By the judgment of conviction dated 21.10.2023, the learned Trial Court convicted the petitioner for the offences under Sections 279/304A of the Indian Penal Code, 1860 ('**IPC**'). By the order on sentence dated 25.06.2014, the learned Trial Court sentenced the petitioner to undergo simple imprisonment for a period of two years for the offence under Section 304A of the IPC and to undergo simple imprisonment for a period of six months for the offence under Section 279 of the IPC. Furthermore, the petitioner was sentenced to pay a fine of ₹5,000/-, and in default of payment of fine, to undergo simple imprisonment for a period of three months. Both sentences were directed to run concurrently.

3. By the impugned judgment, the learned Appellate Court reduced the awarded sentence of two years of simple imprisonment for the offence under Section 304A of the IPC to six months of simple imprisonment.

4. The brief facts of the case are as follows:

4.1. On 23.10.2004, information was received about an accident at Baba Khadak Singh Marg near Hanuman Mandir, Connaught Place. The FIR was registered on the statement of Ct Hari Charan (PW3), who is the alleged eye witness of the incident. It is the case of the prosecution that on the said date, at about 2:40PM, when PW3 was on duty at Baba Khadak Singh Marg, a motorcycle coming towards Cannaught Place Circle hit the victim, aged about 50 years old, who

was crossing the road. Allegedly, the motorcycle was being driven by the petitioner at a high speed in a rash and negligent manner and the concerned road was blocked due to Kali mata procession at the relevant time. The victim sustained fatal injuries.

4.2. By the judgment of conviction dated 21.10.2023, the learned Trial Court convicted the petitioner for the offences under Sections 279 and 304A of the IPC after observing that the circumstances of the case suggest that the incident could not have occurred due to any reason other than the rashness and negligence of the petitioner. It was observed that despite movement of traffic being blocked on the concerned road at the relevant time, the petitioner had entered the area and driven his motorcycle at a high speed, as evident from the evidence of PW3. It was further noted that the fresh damage on the motorcycle of the petitioner was contrary to his claim that his vehicle was not involved in the offence.

4.3. By the impugned judgment, the learned ASJ upheld the conviction and reduced the substantive sentence of the petitioner to six months of simple imprisonment and payment of fine of ₹5,000/-, and in default of payment of fine, to undergo simple imprisonment of three months.

4.4. Aggrieved by the same, the petitioner preferred the present petition.

5. The learned counsel for the petitioner submitted that the petitioner's conviction is perverse as the same is based on conjectures and surmises. She further submitted that the entire story of the prosecution, including the sole eye witness, have not clarified as to how the offending vehicle was being driven in a rash and negligent manner. She stressed that high speed alone is not sufficient to satisfy the threshold of rashness or negligence.

6. She further submitted that the testimony of PW3 is unreliable. She submitted that PW3 has deposed that the motorcycle slowed down at a distance of 70-80 m ahead of where the victim had fallen down due to impact of the collision, where the petitioner was apprehended by PW3. She submitted that the said assertion appears to be improbable, which casts doubt on the case of the prosecution. She further stressed that the eye witness is a police officer and conviction cannot be based on his sole testimony.

7. She submitted that an accident of such nature ought to have caused significant mechanical damage to the offending vehicle, however, admittedly, only the front leg guard of the motorcycle was found to be damaged in the present case.

8. She further submitted that if the entire road was blocked, there was no question of the petitioner's vehicle plying on the road. She submitted that even as per the prosecution, auto rikshaws were present on the road and the victim was rushed to the Hospital on one such

Auto. She submitted that the said aspects cast further suspicion on the case of the prosecution.

9. She submitted that even as per the prosecution, the petitioner did not flee from the spot and took the victim to a nearby Hospital for immediate medical attention.

10. Without conceding on the merits of the case, the learned counsel further submitted that the petitioner's sentence may be reduced to the period already undergone by him on account of the fact that more than two decades have passed since the incident and the petitioner would be severely prejudiced if he is subjected to suffer the remaining period of his sentence.

11. *Per contra*, the learned Additional Public Prosecutor submitted that there is no infirmity in the petitioner's conviction in the present case. He submitted that the learned Trial Court as well as the learned Appellate Court have rightly appreciated the material on record, however, he conceded that the State has no objection if a lenient view is taken in regard to the sentence.

ANALYSIS

12. It is pertinent to note that since the petitioner has preferred a revision petition before this Court thereby challenging the concurrent findings of the learned ASJ and learned Magistrate, the role of this Court is limited to assessing the correctness, legality and propriety of

the impugned judgment. It is well settled that this Court ought to exercise restraint, and should not interfere with the findings of the impugned orders or reappreciate evidence solely because another view is possible unless the impugned orders are wholly unreasonable or untenable in law. The Hon'ble Apex Court in the case of ***State of Kerala v. Puttumana Illath Jathavedan Namboodiri*** **: (1999) 2 SCC 452** discussed the scope of revisional jurisdiction and held as under:

> *"5. ….. In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice.* ***But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice****...."*
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> (emphasis supplied)

13. In the case of ***Amit Kapoor v. Ramesh Chander*** **: (2012) 9 SCC 460**, the Hon'ble Apex Court had also expounded upon the scope of interreference in exercise of revisional jurisdiction. The relevant portion of the judgment is as under:

> *"**12.** Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case.* ***The object of this provision is to set right a patent defect or an error of jurisdiction or law.*** *There has to be*

a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. ***If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely.*** ***<u>These are not exhaustive classes, but are merely indicative.</u>*** *Each case would have to be determined on its own merits.*

13. *Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order.* ***The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie****...*

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18. *…Basically, the power is required to be exercised so that justice is done and there is no abuse of power by the court. Merely an apprehension or suspicion of the same would not be a sufficient ground for interference in such cases.*

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20. *The jurisdiction of the court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression "prevent abuse of process of any court or otherwise to secure the ends of justice", the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done.* ***The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily****..."*

(emphasis supplied)

14. The entire case of the prosecution is essentially helmed on the deposition of the eye witness PW3. Apart from him, in the present

case, the prosecution examined 5 witnesses in support of its case, that is, PW1 (Senior Resident who conducted the postmortem of the unknown victim), PW2 (police officer who had registered the FIR on the basis of *rukka* sent by Investigating Officer), PW4 (clerk who identified the signature of the doctor who had prepared the MLC), PW5 (mechanical inspector who had inspected the offending motorcycle) and PW6 (Investigating Officer).

15. Although arguments in relation to contributory negligence were agitated before the Courts below, before this Court, the petitioner has essentially assailed his conviction on three grounds–there are flagrant improbabilities and infirmities in the case of the prosecution; reliability of the eye witness, who is a police constable; and no cogent evidence which shows rashness or negligence on part of the petitioner.

16. *Firstly*, insofar as the improbabilities and infirmities in the case of the prosecution are concerned, it is argued that the prosecution has failed to establish as to how the petitioner's vehicle was plying on the road if the same had been blocked for facilitating the procession. It is further argued that only the front leg of the offending motorcycle suffered damage and such limited mechanical damage belies the case of the prosecution. After considering the said arguments at length, the learned Trial Court has rightly rejected the same.

Pertinently, in his statement under Section 313 of the Code of the Criminal Procedure, 1973 ('**CrPC**'), while the petitioner

maintained that he was falsely implicated, he categorically admitted his presence at the spot of the incident and stated that PW3 had asked for his help in taking the victim to the hospital. It is also rightly appreciated by the learned Trial Court that it was not the duty of the prosecution to establish as to how the petitioner managed to enter the road where vehicular movement was stopped due to procession.

Entertaining the possibility of the petitioner having entered there stealthily or by hoodwinking the police officials on duty, the learned Trial Court rightly noted that the case of the prosecution will not fail due to the said aspect, especially when there is no reason as to why the petitioner would have been falsely implicated in the present case. Moreover, the petitioner has not led any evidence to bely the assertion of PW3 that the road was blocked due to the procession. PW3 has duly explained that though this fact was not mentioned in his statement under Section 161 of the CrPC, he had mentioned the same to the IO. Although some doubt is raised on account of the presence of the auto, in which the victim was taken to the hospital, the possibility of the said vehicle also stealthily plying on the road cannot be negated. The said aspect is not so glaring so as to merit reappreciation of evidence in detail and for this Court to draw a different conclusion.

As far as the damage to the vehicle is concerned, as noted by the learned Trial Court, the fresh damage detected on the motorcycle, as also proved by PW5, corroborates the case of the prosecution.

In view of the aforesaid discussion, this Court is of the opinion that the said argument raised by the petitioner has no merit. The allegations levelled against the petitioner and the entire case of the prosecution are not implausible or far-fetched so as to warrant his acquittal in the present case.

17. *Secondly*, it is also argued that the evidence of PW3 is rendered suspicious due to him being a police officer. It is well-settled that evidence of police officials cannot be discarded merely due to absence of any corroboration from an independent person. There is no general rule that police officers cannot be sole eye witnesses in a criminal case and reliability of their evidence depends on the facts of the case. In the present case, PW3 was posted for duty at the spot of the incident at the relevant time. Moreover, in his statement under Section 313 of the CrPC, the petitioner has himself admitted to the presence of PW3 on the spot of the incident. In such circumstances, when the presence of PW3 on the spot of the incident is duly explained and the defence has failed to make out a case of false implication, the evidence of PW3 cannot be discarded solely due to his position as a Constable.

Doubt is also sought to be raised on the reliability of the eye witness, as he deposed that the motorcycle was stopped 70-80m away from the spot of occurrence due to the impact. This Court finds no merit in the said argument either. PW3 has duly explained that he had apprehended the petitioner at a distance of 70-80m from the spot of collision and the motorcycle was slow due to the impact. The slowing

down of the vehicle after the incident, and PW3 getting the opportunity to apprehend the petitioner is not inconceivable.

18. *Thirdly*, it is argued that there is no evidence to show rashness and negligence on part of the petitioner. While PW3 has deposed that the vehicle of the petitioner was coming at a very high speed before it struck the victim, it is argued that high speed alone cannot be a determining factor of rashness and negligence. The said argument has also been rightly rejected by the Courts below. It has been aptly appreciated by the learned Trial Court that although high speed alone may not reflect rashness or negligence, in the peculiar circumstances of the present case, where the accident took place on a road which was blocked on account of the procession, the petitioner ought to have taken due care to ensure the safety of the present pedestrians. The speed of the petitioner in such circumstances is indicative of rashness and negligence. The principle of *respondent ipsa loquitur* has also been rightly applied to note that the accident would not have occurred if not for the negligence of the petitioner in venturing on a blocked road and driving at a high speed.

19. As noted above, at the stage of revision, this Court is not required to reappreciate evidence and it can interfere only in face of palpable and glaring perversity. As discussed above, the Courts below have aptly appreciated the material on record and the petitioner's conviction is backed by rational reasoning. This Court is thus of the

opinion that the petitioner has failed to make out any case which warrants interference with the impugned judgment.

20. Insofar as the sentence of the petitioner is concerned, pertinently, the incident took place on 23.10.2004 and more than twenty years have elapsed since then. The record indicates that the petitioner's sentence was suspended on 27.01.2015 after he spent about 42 days in custody. The petitioner has remained on bail since then and he was also on bail during the course of the trial.

21. Pertinently, no minimum sentence of imprisonment is prescribed for the offences under Section 304A of the IPC and Section 279 of the IPC. At this juncture, this Court deems it apposite to note that the reformative purpose of sentencing as well.

22. In the case of ***Parkash Chandra Agnihotri v. State of M.P.* : 1990 Supp SCC 764**, the Hon'ble Apex Court while upholding the conviction of the appellant therein for the offence under Section 304A of the IPC, the Hon'ble Apex Court had reduced the sentence of the accused to only payment of fine. The relevant portion of the order is as under:

> *"…The occurrence took place on February 18, 1972. The appellant has throughout been on bail. He has been sentenced to six months rigorous imprisonment and a fine of Rs 250.* ***We are of the view that it would be rather harsh to send the appellant to jail after 18 years of the occurrence. The ends of justice would be met if the appellant is asked to pay a fine of Rs 2000.*** *The sentence is thus converted to a fine of Rs 2000. On realisation the amount shall be paid to the family of the deceased girl. The amount be*

deposited with the trial court within two months from today and the trial court shall disburse the same to the parents of the girl and in the absence of the parents to the next of kin of the girl. In default of the payment of fine the appellant shall undergo imprisonment for six months."

(emphasis supplied)

23. Placing reliance on the aforesaid case, this Court had recently commuted the sentence of the accused in the case of ***Charan Singh v. State*** **: 2026:DHC:171** although he had spent a mere 10 days in custody by taking his age as well as ailing health of his wife in consideration. In the present case as well, this Court is of the opinion that no purpose would be served by relegating the petitioner to undergo the remaining period of carceral punishment after more than twenty years have passed since the incident. Interests of justice would be met if the sentence imposed upon the petitioner is reduced to the period already undergone by him.

24. In view of the above, without interfering with the conviction of the petitioner, his sentence is reduced to the imprisonment already suffered by him and payment of fine of ₹5,000/-. It is stated that the fine has already been paid by the petitioner.

25. The present petition is disposed of in the aforesaid terms.

26. The bail bond and surety furnished by the petitioner stand discharged.

AMIT MAHAJAN, J

FEBRUARY 3, 2026/*'KDK'*