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Sunil Kumar Vs. State (Nct of Delhi)

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Court : Delhi

Decided On : Dec-21-2010

Judge : Shiv Narayan Dhingra, J.

Acts : Indian Penal Code (IPC) - Sections 279, 304A; Motor Vehicles Act - Section 133

Appeal No. : Crl.Rev. No.735/2010

Appellant : Sunil Kumar

Respondent : State (Nct of Delhi)

Advocate for Def. : Mr. Sunil Sharma, Adv.

Advocate for Pet/Ap. : Mr. Sanjay Rathi, Adv.

Judgement :

1. This criminal revision petition has been preferred by the petitioner against the judgment dated 16th November 2010 whereby the conviction of the petitioner under Section 279 and 304A IPC was upheld by the first appellate court.

2. The basic ground for revision is that the trial court did not appreciate the evidence of prosecution witnesses and convicted the accused/ petitioner. The material witness namely the rickshaw puller whose rickshaw was hit by the fire brigade vehicle number DEG-2944 under the wheels driven by the petitioner was not produced. A plea is also taken that the petitioner was not the driver of the

vehicle.

3. It is settled position of law that a revision cannot be treated as a second appeal and the court can interfere with the order only in revision if the court below has committed some grave irregularity and illegality or exceeded the jurisdiction or the judgment was delivered without evidence. In the present case, the petitioner was driving a government vehicle and it was a case of hit and run. The petitioner after causing the accident had run away from the spot. A notice under Section 133 Motor Vehicles Act issued to the petitioner's department which revealed the identity of the petitioner as driver. Negligence of the driver of the vehicle has been proved by the witnesses and the two courts below came to conclusion that the accident was caused due to negligence of the petitioner. This court cannot disturb the concurrent findings having given by the two courts below while exercising its revisional jurisdiction.

4. The counsel for the petitioner prayed for leniency in sentence. I find that the trial court and the first appellate court have already shown enough leniencies towards the petitioner. The petitioner was convicted under Sections 279 and 304A IPC and sentenced the petitioner for a term of seven months and fine. I find that no further leniency could be shown towards petitioner. Rather it is a case where no leniency ought to have been shown towards petitioner who after causing accident and ran away from the spot instead of taking the injured to hospital.

5. The petition has no force and is hereby dismissed with no orders to costs.

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