



2025:DHC:728



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 30th January, 2025*

+ **CRL.A. 93/2021**

STATEAppellant

Through: Mr. Shoaib Haider, APP for the State
with SI Dilsukh, PS KNK Marg,
Rohini.

versus

GAUTAM KUMARRespondent

Through: Mr. Umay Mittal and Ms. Priyanka
Marwah, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Appeal under Section 377 (3) of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'CrPC'*) has been filed by the Appellant/State, against the Order on Sentence dated 20.07.2020 of the learned ASJ to seek enhancement of sentence imposed Section 279/304-A of the Indian Penal Code, 1860.

2. ***Briefly stated***, the *FIR No. 456/2011* under Section 279/304-A of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*) registered at Police Station K.N. Katju Marg against the accused/Gautam Kumar, on account of demise of motorcyclist, Mr. Rajat Kumar, on 11.11.2011, due to rash and negligent driving of Bolero Car bearing registration No. DL 8C NA 1844.



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3. After the trial, Ld. Metropolitan Magistrate held the Respondent /Gautam guilty of the offence under Section 279/304 A of the IPC, 1860, *vide* Judgment dated 28.08.2019.

4. Thus, *vide* Order of Sentence dated 31.08.2019, he was sentenced to imprisonment of one year SI and fine of Rs.1,00,000/-, to be paid to the Complainant, by the learned Metropolitan Magistrate.

5. Aggrieved by the above Conviction and Order on sentence, the Respondent preferred the Appeal before the learned ASJ, who *vide* Order dated 20.07.2020, upheld the Order of Conviction dated 28.08.2019. However, considering the totality of circumstances, reduced the sentence *to four months with fine of Rs.10,000/-* to be paid to the Complainant.

6. Thus, the present Appeal has been filed by the State assailing the Impugned Order on Sentence dated 20.07.2020, on the ground that looking at the gravity of the offence, the sentence is inadequate and seeks enhancement of the sentence thereof.

7. ***Learned counsel on behalf of the Respondent***, has submitted that pursuant to the Order dated 20.07.2020 passed by the learned ASJ, the Respondent has already undergone imprisonment of four months and has deposited the fine.

8. It is further submitted that learned ASJ had considered that the Respondent was 19 years of age at the time of accident and he himself had taken the injured to the hospital and that he has already faced the trial for almost 14 years and thus, has rightly reduced the sentence in the changed circumstances. Therefore, there is no infirmity in the



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Order dated 20.07.2020 reducing the sentence and the Appeal is liable to be dismissed.

9. Submissions heard and the record perused.

10. Briefly stated, the Respondent, Gautam Kumar on 11.11.2011 while driving his Bolero Car bearing registration No. DL 8C NA 1844, hit into a motorcycle bearing registration No. DL 8S AR 9404, resulting in demise of the motorcyclist, Mr. Rajat Kumar.

11. The accused/Gautam was convicted *vide* Judgment dated 28.08.2019, for the offence under Section 279/304 A of the IPC, 1860 and *vide* Order of Sentence dated 31.08.2019 was sentenced to simple imprisonment of one year and fine of Rs.1,00,000/- to be paid to the Complainant.

12. Learned ASJ while considering the Appeal, upheld the Conviction but noted the aforementioned circumstances and thus, reduced the Sentence to four months SI and fine of Rs.10,000/-, to be paid to the legal heirs of the deceased.

13. It is no doubt true that there is no substitute to young life, which was lost in the accident but at the same time, the sentencing Policy is a balance between the retribution and rehabilitation. The family members of the deceased, Mr. Rajat Kumar has also got some compensation under the Motor Vehicle Act, 1988.

14. Admittedly, the Respondent was a young boy of 19 years, who was driving the car of his father, which met with the accident. He has faced the trial, till he first got convicted on 28.08.2019, under Section 279/304-A of the IPC. Thereafter, he continued to defend the case, in



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the Appeal, which was decided on 20.07.2020, and his sentence was reduced to four months SI from one year SI.

15. The Respondent has already suffered almost 14 years of trial, during which period many circumstances have changed.

16. It has been rightly noted by the learned ASJ that his father had already expired and he has the responsibility of his mother, two unmarried sisters and one unmarried brother, who were dependent upon him since he was the eldest in the family. There is repentance on his part, as has also been expressed during the arguments and has already undergone Four months of Imprisonment.

17. Considering the young age, arduous trial and the changed circumstances, the Sentence has been rightly reduced *vide* the Impugned Order dated 20.07.2020, which in the facts and circumstances of this case, cannot be considered as unjustified.

18. There is no infirmity in the Impugned Order on Sentence dated 20.07.2020.

19. The Appeal is hereby dismissed and disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

JANUARY 30, 2025/RS