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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JANUARY, 2021

BEFORE

THE HON'BLE MR. JUSTICE V. SRISHANANDA

CRIMINAL REVISION PETITION NO.126 OF 2015

BETWEEN:

SHIVAKUMAR
S/O BHUTAIAH,
AGED ABOUT 24 YEARS
R/O TARUR, SIRA TALUK
TUMKUR DISTRICT-572125

...PETITIONER

(BY SRI. SUYOGA, ADVOCATE FOR
SRI. ARUNA SHYAM M, ADVOCATE)

AND:

THE STATE OF KARNATAKA
REPRESENTED KORA
POLICE STATION,
TUMKUR DISTRICT
REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
HIGH COURT OF KARNATAKA
BANGALORE-560 001.

...RESPONDENT

(BY SRI.K.S.ABHIJITH,HIGH COURT GOVERNMENT
PLEADER)

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THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 OF CR.P.C. PRAYING TO SET-ASIDE THE ORDER DATED 23.12.2014 PASSED BY THE LEARNED PRESIDING OFFICER, FAST TRACT COURT AT TUMKUR, IN CRL.A.NO.101/2013 AND ALSO THE ORDER DATED 11.09.2013 PASSED BY THE LEARNED II-ADDL. CIVIL JUDGE AND JMFC COURT AT TUMKUR, IN C.C.NO.3685/2011 AND CONSEQUENTLY ACQUIT THE PETITIONER.

THIS CRIMINAL REVISION PETITION IS COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This revision petition is filed against the judgment in C.C. No.3685/2011 on the file of II Additional Civil Judge and J.M.F.C, Tumkur, wherein, the court convicted the accused-revision petitioner for the offences punishable under Section 279 and 304A of Indian Penal Code (for short 'IPC') read with Section 187 of the Indian Motor Vehicles Act (for short 'IMV Act') and sentenced the accused to pay a fine of Rs.500/- for the sentence under Section 279 of IPC and simple imprisonment for a period of two months with a default sentence of simple

imprisonment for 10 days and for offence punishable under Section 304A of IPC simple imprisonment for a period of one year and a fine of Rs.1,000/- with a default sentence simple imprisonment for 15 days and for the offence punishable under Section 187 of IMV Act the accused was sentenced to pay a fine of Rs.500/- with a default sentence of simple imprisonment of 10 days which was confirmed in Crl.A No.101/2013 on the file of Fast Track Court, Tumkur by judgment dated 23.12.2014.

2. Brief facts which are necessary for disposal of this revision petition are as under:

A complaint came to be filed with the Rural Police Station, Tumkur contending that on 21.09.2011 at about 5:40 p.m. at Kora bus stop on National Highway-4, Narasimhaswamy (hereinafter referred to as '**deceased**' for short) who was a postman was standing on the left side of the road in order to hand over the post bag to a bus. At that juncture, a lorry bearing No.KA-52-5166 driven by its driver in a rash and negligent manner coming from

Tumkur towards Sira, dashed against deceased whereby, he sustained grievous injuries on his head and his head separated from the body and he died on the spot.

3. It is further contended that the driver of the lorry ran away from the spot without intimating the accident to the police. On registration of the case, the police investigated the matter in detail and Circle Inspector of Rural Police Station, Tumkur filed a charge sheet against the accused for the offences punishable under Sections 279 and 304A of IPC and Section 187 of the IMV Act.

4. On receipt of charge sheet, the learned Magistrate took cognizance of the offences alleged against the accused and secured the presence of the accused and charge was framed.

5. The accused did not plead guilty. As such trial was held. Prosecution in order to prove the case of the prosecution, examined in all 11 witnesses who were examined as PWs.1 to 11 and relied on 11 documents

which were exhibited and marked as Exs.P1 to P11. After conclusion of the prosecution evidence, accused statement as contemplated under Section 313 of Cr.P.C. was recorded wherein, the accused denied all the incriminating circumstances. There was no defence evidence placed by the accused. Learned Magistrate on cumulative consideration of oral and documentary evidence on record, after hearing the parties, passed the order of conviction and sentence as referred supra.

6. Being aggrieved by the judgment of the learned Magistrate, the accused preferred an appeal before the Fast Track Court, Tumkur in CrI.A No.101/2013.

7. First Appellate Court secured the records and after hearing the parties in detail, confirmed the judgment of the learned Magistrate and dismissed the appeal. It is those judgments, which are the subject matter of this revision petition.

8. Learned counsel for the revision petitioner Shri Suyoga submits that Shri Aruna Shyam has been appointed as Additional Advocate General and therefore, he may be permitted to file a memo of appearance and argue the matter. He is permitted to file a memo of appearance within a week from today.

9. This court heard the arguments of Shri Suyoga, learned counsel for revision petitioner and Shri K.S. Abhijith, learned High Court Government Pleader representing the State Public Prosecutor and perused the records.

10. Sri Suyoga submits that the trial court as well as the first appellate court have wrongly convicted the accused for the offence punishable under Sections 279 and 304A of IPC read with Section 187 of IMV Act. He further contends that the material evidence on record has not been properly appreciated by the trial court and ignored by the first appellate court. Alternatively, he submits that the sentence as ordered by the trial court, confirmed by the

first appellate court is excessive and thus sought for allowing the revision petition by granting probation or reducing the period of sentence.

11. Per contra, learned High Court Government Pleader supported the impugned judgments and prayed for dismissal of the revision petition.

12. In view of the rival contentions, following points arises for consideration:

(i) Whether the finding recorded by the Magistrate that accused is responsible for the accidental death of Narasimhaswamy involving a lorry bearing No.KA-52-5166 on 21.09.2011 at 5:40 p.m. near Kora bus stand on account of the rash and negligent driving of the driver of the lorry which is confirmed by the first appellate court in CrI. A No.101/2013 is erroneous?

(ii) Whether the sentence as ordered by the learned Magistrate and confirmed by the first appellate court is excessive?

The above said points are answered in negative and partly in affirmative respectively for the following reasons:-

REASONS

13. **POINT NO.1:** In the case on hand, even though at the time of recording the accused statement, the accused has denied the accident, the material available on record especially the post mortem report, seizure of lorry, spot sketch and the oral evidence placed by the prosecution clearly establish that the deceased was a postman waiting near Kora bus stop for handing over the post bag to a bus, lost his life in the road traffic accident that occurred on 21.09.2011 at about 5:40 p.m. The material available on record clearly establish that it is the negligent driving of the accused which resulted in the accident as noted by learned Magistrate while appreciating the testimony of eye witnesses.

14. It is also pertinent to note that accused did not lead his evidence or atleast file a written submission at the time of recording the accused statement as to his version of the

case. Under the circumstances, the learned Magistrate was justified in convicting the accused.

15. The learned judge in the first appellate court, re-appreciated the material on record and concurred with the finding recorded by the learned Magistrate.

16. This court even after re-appreciation of the entire material on the record in the light of the arguments advanced on behalf of the revision petitioner, noticed that eyewitness - PW-2 (Yathish) did not possess any previous enmity and animosity against accused to depose falsely. Therefore, the defence theory that prosecution has not proved its case with cogent evidence cannot be countenanced in law. Since, eye-witness has given clear account of the incident with graphic details and with all certainty, this court does not find any patent defect or error of jurisdiction or legal infirmity so as to interfere with the said finding of both the courts in this revision petition. Accordingly, Point No.1 is answered in **negative**.

17. **POINT NO.2:** Insofar as sentence is concerned, learned counsel for the revision petitioner has contended that the accused was aged 22 years as on the date of accident and therefore, liberal and lenient view may be taken by reducing the sentence. In this regard he relies on the unreported judgment in CrI.R.P. No.100025/2014 **(Ulas Vs. State of Karnataka)** and sought for grant of probation. Paras 10 to 12 of the said order is culled out hereunder:

"10. Though the learned counsel for the petitioner has cited several rulings of this Court, wherein this Court had occasion to discuss and deal with similar cases and under distant circumstances this Court has imposed fine instead of imposing substantive sentence of imprisonment for the offence under Section 304A of IPC. In some of the cases, this court has reduced the imprisonment to a lesser sentence. Therefore, it goes without saying that there is discretion vested with the court either to impose substantive sentence of

imprisonment or to impose fine or with both under Section 304A of IPC.

*11. In this regard, the decision cited by the learned High Court Government Pleader in my opinion should be borne in mind because in this case, the Hon'ble Apex Court has virtually issued guidelines under what circumstances the courts have to deal with the accident matters in imposing the sentence on the accused person. The above cited ruling reported in **2012(2) SCC 182** in which the Hon'ble Apex Court has held that:*

"Motor accident - Death caused by rash and negligent driving - quantum of sentence - considerations - Bus and truck, being driven in a rash and negligent manner by both drivers, collided with each other - Five persons travelling in bus died - Trial Court convicted both respondent - accused (drivers of bus and truck) and directed them to undergo Rigorous imprisonment for two years each - sentence upheld by Sessions Judge - High Court considering that respondent - accused had suffered a protracted trial for about 17 years and had already undergo custody for 15 days,

reduced quantum of sentence to period already undergone but enhancing the amount to Rs.25,000/- each."

The Apex Court has in fact disapproved the observations made by the High Court, holding that the Probation of Offenders Act, 1958 is not applicable to the offence under Sections 304A of IPC, the Court held that:

"Criminal Courts cannot treat nature of offence under Section 304A IPC as attracting benevolent provisions of Probation of Offenders Act - One of the prime considerations in determining quantum of sentence for offence of causing death or injury by rash and negligent driving of automobiles should be deterrence - For lessening high rate of motor accidents due to careless and callous driving of vehicles, courts are expected to consider all relevant facts and circumstances bearing on question of sentence and proceed to impose a sentence commensurate with gravity of offence - sentence of six months Rigorous imprisonment and fine of Rs.5,000/- each imposed."

12. In view of the above said guidelines, this Court has to strike a balance as to what would be the proper and correct sentence that could be passed against the petitioner herein."

18. However, the age is not the criteria in the facts and circumstances of this case to reduce the sentence or to show lenience.

19. Insofar as the decision rendered in Crl.R.P.2152/2011 in the case of **S H Manjanna Vs. State**, relied on by the learned counsel for the revision petitioner wherein, for the offence punishable under Section 304-A of IPC, the co-ordinate bench of this court proceeded to grant the benefit of probation to the accused. The relevant portion is culled out hereunder:

"13. Having taken note of the peculiar circumstances of the case and the principles laid down in the judgment of the Apex Court referred supra, the question of invoking section 4 and 12 of the Probation of Offenders Act, does not arise in the case on hand. Due to the

impact two lives are lost. One is the driver and another person who was in the cabin of the lorry. However taking into note of the accident is of the year 2003, and almost 16 years time has been elapsed and instead of sending him to serve the sentence of imprisonment for a period of six months as imposed by the lower appellate Court and also taking note of the nature of job of the petitioner herein being a driver of KSRTC and also this Court in the earlier judgments instead of imposing sentence of simple imprisonment, taken note of loss of life of persons, the same can be compensated by enhancing the fine amount and the sentence of imprisonment can be waived off and ordered to pay fine amount as compensation to the L.Rs., of deceased persons.

14. In the case on hand two persons have lost life and hence instead of ordering for sentencing him to undergo simple imprisonment which affects his service, it is appropriate to impose fine of Rs.1,00,000/- and out of that an amount of Rs.45,000/- each can be paid in favour of the L.Rs., of the

deceased persons. The remaining amount of Rs.10,000/- should go to the State."

20. But, in the case of ***State of Punjab Vs. Saurabh Bakshi***, reported in **(2015) 5 SCC 182**, it has been held as under:

"8. It is submitted by Mr.Madhukar that when the prosecution had been able to establish the charges levelled against the respondent and both the trial court and the appellate court had maintained the sentence there was no justification on the part of the High Court to reduce the sentence to the period already undergone solely on the basis that the respondent had paid some compensation. It is his further submission that keeping in view the gravity of the offence that two deaths had occurred the High Court should have kept itself alive to the nature of the crime and should have been well advised not to interfere with the quantum of sentence. He has commended us to the decisions in State of Punjab v. Balwinder Singh [State of Punjab v. Balwinder Singh, (2012) 2 SCC 182 : (2012) 1 SCC (Cri) 706] and Guru Basavaraj v. State of Karnataka [Guru

Basavaraj Vs. State of Karnataka, (2012) 8 SCC 734 : (2012) 4 SCC (Civ) 594 : (2013) 1 SCC (Cri)972] .

9. Ms Meenakshi, learned Senior Counsel, per contra, has contended that the respondent was quite young at the time the accident took place and it may be an act of negligence, but the contributory facet by the Maruti car driver cannot be ruled out. That apart, there are mitigating circumstances for reduction of the sentence and in the obtaining factual matrix the High Court has appositely adopted corrective machinery which also reflects the concept of proportionality. The learned Senior Counsel would also submit that when the High Court has exercised the discretion which is permissible under Section 304-A IPC this Court should be slow to interfere. It is urged by her that when the compensation had been paid, the High Court has kept in view the aspect of rehabilitation of the victim and when that purpose have been subserved the reduction of sentence should not be interfered with. The learned Senior Counsel has drawn inspiration from Gopal Singh v. State of Uttarakhand [Gopal Singh v. State of Uttarakhand, (2013) 7 SCC 545 : (2013) 3 SCC (Cri) 608] and a recent judgment in Criminal

Appeal No. 290 of 2015 titled State of M.P. v. Mehtaab [State of M.P. v. Mehtaab, (2015) 5 SCC 197 : (2015) 2 Scale 386].

10. At the outset, it is essential to note that the respondent stood convicted by the trial court as well as by the appellate court. The findings recorded by the said two courts are neither perverse nor did they call for interference in exercise of the revisional jurisdiction. The High Court as we notice has been persuaded by the factum of payment of compensation by the respondent herein, amounting to Rs 85,000 to the legal representatives of deceased Jagdish Ram and his nephew and the said compensation had been directed to be paid by virtue of the order dated 19-9-2013 [Saurabh Bakshi v. State of Punjab, Criminal Revision No. 2955 of 2013, order dated 19-9-2013 (P&H)] passed by the High Court. It is submitted by Ms Arora that apart from the young age of the respondent at the time of occurrence the aforesaid aspect would constitute the mitigating factor.

11. In Mehtaab case [State of M.P. VS. Mehtaab, (2015) 5 SCC 197 : (2015) 2 Scale 386] a two-Judge Bench was dealing with the

case under Section 304-A IPC wherein the respondent was convicted under Sections 304-A and 337 IPC and sentenced to undergo one year's and three months' rigorous imprisonment, respectively. The High Court had reduced the sentence to 10 days. It is apt to note here that in that case the deceased had received injuries due to shock of electric current. The Court took note of the submission of the learned counsel for the State and proceeded to opine as follows: (SCC p. 199, paras 6-7)

"6. The learned counsel for the State submitted that the respondent-accused had installed a transformer in his field and left the electric wires naked which was a negligent act. The deceased Sushila Bai died on account of the said naked wire which had high voltage and was not visible in the dark. The offence having been fully proved by the evidence on record, the High Court was not justified in reducing the sentence to 10 days which was not just and fair. Even if liberal view on sentence of imprisonment was to be taken, the High Court ought to have enhanced the sentence of fine and awarded a

reasonable compensation as a condition for reduction of sentence.

7. We find force in the submission. It is the duty of the Court to award just sentence to a convict against whom charge is proved. While every mitigating or aggravating circumstance may be given due weight, mechanical reduction of sentence to the period already undergone cannot be appreciated. Sentence has to be fair not only to the accused but also to the victim and the society. It is also the duty of the court to duly consider the aspect of rehabilitating the victim. Unfortunately, these factors are missing in the impugned order. No cogent reason has been assigned for imposing only 10 days' sentence when an innocent life has been lost."

12. After so stating the Court referred to the decision in Suresh v. State of Haryana [(2015) 2 SCC 227 : (2015) 2 SCC (Cri) 45] and enhanced the compensation taking note of the financial capacity of the accused-respondent therein, and directed as follows:

(Mehtaab case [State of M.P. v. Mehtaab, (2015) 5 SCC 197 : (2015) 2 Scale 386] SCC p. 200, paras 10-11).

"10. As already observed, the respondent having been found guilty of causing death by his negligence, the High Court was not justified in reducing the sentence of imprisonment to 10 days without awarding any compensation to the heirs of the deceased. We are of the view that in the facts and circumstances of the case, the order of the High Court can be upheld only with the modification that the accused will pay compensation of Rs 2 lakhs to the heirs of the deceased within six months. In default, he will undergo RI for six months. The compensation of Rs 2 lakhs is being fixed having regard to the limited financial resources of the accused but the said compensation may not be adequate for the heirs of the deceased. In such a situation, in addition to the compensation to be paid by the accused, the State can be required to pay compensation under Section 357-A CrPC.

11. As per the judgment of this Court in Suresh [(2015) 2 SCC 227 : (2015) 2 SCC (Cri) 45] , the scheme adopted by the State of Kerala is applicable to all the States and the said scheme provides for compensation up to Rs 5 lakhs in the case of death. In the present case, it will be appropriate, in the interests of justice, to award interim compensation of Rs 3 lakhs under Section 357-A CrPC payable out of the funds available/to be made available by the State of Madhya Pradesh with the District Legal Services Authority, Guna. In case the accused does not pay the compensation awarded as above, the State of Madhya Pradesh will pay the entire amount of compensation of Rs 5 lakhs within three months after expiry of the time granted to the accused."

13. In our considered view the decision in the said case has to be confined to the facts of that case. It cannot be said as a proposition of law that whenever an accused offers acceptable compensation for rehabilitation of a victim, regardless of the gravity of the crime under

Section 304-A IPC, there can be reduction of sentence.

14. In this context, we may refer with profit to the decision in Balwinder Singh [State of Punjab v. Balwinder Singh, (2012) 2 SCC 182 : (2012) 1 SCC (Cri) 706] wherein the High Court had allowed the revision and reduced the quantum of sentence awarded by the Judicial Magistrate, First Class, for the offences punishable under Sections 304-A, 337, 279 IPC by reducing the sentence of imprisonment already undergone, that is, 15 days. The Court referred to the decision in Dalbir Singh v. State of Haryana [Dalbir Singh v. State of Haryana, (2000) 5 SCC 82 : 2004 SCC (Cri) 1208] and reproduced two paragraphs which we feel extremely necessary for reproduction: (Balwinder Singh case [State of Punjab v. Balwinder Singh, (2012) 2 SCC 182 : (2012) 1 SCC (Cri) 706] , SCC pp. 186-87, para 12)

"12. ... '1. 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 the sentencing sphere. Any latitude shown to them in that sphere would tempt them to make driving frivolous and a frolic."

21. It is pertinent to note that in **Sourab Bakshi's case**, the Hon'ble Apex Court referred the decisions rendered in the case of (1) State of Punjab Vs. Balwinder singh [(2012) 2 SCC 182]; (2) Nagabhushanam Vs. State of Karnataka reported in 2008 5 SCC 730; (3) Gurubasavaraj Vs. State of Karnataka reported in (2012) 8 SCC 734; and (4) State of Karnataka Vs. Sharanappa Basanagouda Aregowda reported in (2002) 3 SCC 738 and various other judgments of the Hon'ble Apex Court regarding passing of appropriate sentence for an offence

punishable under Section 304A IPC and came to the conclusion that showing leniency or ordering compensation for reduction of the sentence would only result in misplaced sympathy and mockery of justice. The Hon'ble Apex Court also specifically ruled that the lives of poor cannot be dealt with lightly. It also ruled that the lives of pedestrians is always in an uncertainty if professional drivers are dealt lightly. The drivers of vehicles involving rash and negligent act should not be made to feel that they are the 'Emperors of all they survey'. The court also rules that young age is not the sole criteria for reduction of sentence.

22. Applying the principles enunciated in the said decisions to the facts of this case, the offence under Section 304A of IPC is a distinct class of offence, where the Hon'ble Apex Court felt the necessity of passing appropriate sentence of imprisonment and not to jump to grant probation for such class of offence. Accordingly, the judgments rendered by the coordinate bench of this court,

relied on by the learned counsel for the Revision Petitioner in CRL.RP. No.100025/2014, (Ulas Vs. State of Karnataka) and CRL.RP. No.2152/2011 (S.H. Manjanna and State of Karnataka) are not of much avail in accepting the prayer for grant of probation.

23. For the offence under Section 304A of IPC maximum punishment that could be awarded is two years. Further, it is pertinent to note that accused did not offer his version as to the incident. The necessity of offering explanation by the accused in a matter of this nature is desirable so as to arrive at a proper finding while adjudging the guilt as well as for passing an appropriate sentence. If the accused deliberately fails to make use of such an opportunity or fail to place defence evidence, the Trial judge has to assess the materials on record as is placed by the prosecution alone.

24. In this regard, this court places reliance on the judgment of the Hon'ble Apex Court in the case of **Ravi**

Kapur Vs. State of Rajasthan reported in **(2012) 9 SCC**

284 it has been held as under:

"39. It is true that the prosecution is required to prove its case beyond reasonable doubt but the provisions of Section 313 Cr.P.C. are not a mere formality or purposeless. They have a dual purpose to discharge, firstly, that the entire material parts of the incriminating evidence should be put to the accused in accordance with law and, secondly, to provide an opportunity to the accused to explain his conduct or his version of the case. To provide this opportunity to the accused is the mandatory duty of the Court. If the accused deliberately fails to avail this opportunity, then the consequences in law have to follow, particularly when it would be expected of the accused in the normal course of conduct to disclose certain facts which may be within his personal knowledge and have a bearing on the case."

25. In the case on hand, on conclusion of the prosecution witnesses, at the time of recording the accused statement, accused denied all the incriminating

circumstances. He did not lead any evidence or place on record his version as to the incident. Nor, did he furnish any written submission so as to accept the same as part of the record as is contemplated u/s.313 of Cr.PC.

26. As such, by following the dictum in **Ravi Kapur's** case cited supra, when the accused has deliberately failed to offer his explanation to put forth his case, it is needless to emphasize that the consequences under law should follow. The same has been done by the learned Magistrate while passing the sentence of imprisonment of one year in the absence of any mitigating circumstances that was placed before the Trial Court.

27. It is also pertinent to note that the State did not challenge the sentence as is imposed by the learned Magistrate seeking enhancement of the sentence. As such, as far as the State is concerned, the sentence as is passed by the learned Magistrate has become final. But it is also pertinent to note that the learned Magistrate has

ordered simple imprisonment for two months for the offence punishable under Section 279 of IPC as well.

28. Whenever an accused is convicted for the offence punishable under Sections 279 and 304A of IPC, a separate sentence needs to be ordered in respect of both counts is a question that often arises.

29. The law in this regard is no longer res integra. Gainfully, this court places its reliance on the judgment of the Hon'ble Apex Court in the case of **Gurubasavaraj @ Bennishettappa Vs. State of Karnataka** reported in **(2012) 8 SCC 734**, wherein the Hon'ble Apex Court has held as under:

"14. The next limb of submission of the learned counsel for the appellant is that when he has been acquitted under Section 279 IPC, he cannot be punished in respect of the other offences as the allegation of rash and negligent act cannot be treated to have been proven. The aforesaid submission, on a first blush, may look quite attractive, but on a deeper scrutiny of the judgment passed by the appellate Court, it melts

into total insignificance. The learned Appellate Judge, after due appreciation of the evidence on record as expected of an appellate Court, has come to the conclusion that the accused was driving the vehicle in a rash and negligent manner. After ascribing some reason, he has thought it apposite that a separate sentence should not be imposed under Section 279 IPC, and accordingly, he has set aside the sentence awarded by the trial Court.

30. Applying the above principles of law to the case on hand, in view of the fact that only one victim is involved in the present case, ordering separate imprisonment for the offence punishable under Section 279 of IPC by the Trial Court is incorrect which has been ignored by the first appellate court. Accordingly, the sentence as ordered by the Trial Court for the offence punishable under Section 279 of IPC needs to be set aside.

31. Accordingly, to that extent, sentence as is ordered by the learned Magistrate and confirmed by the first Appellate Court needs interference by this court by setting aside the

sentence of imprisonment of two months for the offence punishable under Section 279 of IPC. Accordingly, point No.2 is answered partly in the affirmative and following order is passed:-

ORDER

Revision Petition is ***allowed-in-part.*** While maintaining the order of conviction for the offence punishable under Sections 279 and 304A of IPC and Section 187 of IMV Act, the sentence of imprisonment ordered for the offence punishable under Section 279 of IPC is set-aside. Rest of the sentence stands unaltered. The accused is directed to surrender **before the Trial Court** for serving the sentence.

Office is directed to return the Trial Court Records forthwith, with a copy of this order so as to enable the Trial Court to issue modified conviction warrant.

Sd/-
JUDGE

Chs/PL*