Delhi High Court Paras Nath vs State Of Delhi on 22 April, 2003 Equivalent citations: 2003 VIAD Delhi 641, 2004 CriLJ 731, 107 (2003) DLT 169, 2003 (3) JCC 1500 Author: H Malhotra Bench: H Malhotra JUDGMENT H.R. Malhotra, J. 1. Petitioner/accused was convicted for offences punishable under Sections 279/304-A IPC vide judgment dated 19th July,2000 rendered by Metropolitan Magistrate and sentenced to undergo rigorous imprisonment for six months besides a fine of Rs. 500/- under Section 279 IPC and further sentenced for one year and a fine of Rs. 1,000/- for commission of offence punishable under Section 304-A with default clause. 2. Feeling aggrieved by the judgment, the petitioner preferred an appeal which came up for hearing before Mr. M.S. Sabharwal, Additional Sessions Judge, Delhi, who though maintained the conviction but reduced the sentence from six months to three months for offences under Section 279 and further reduced sentence of one year to 9 months under Section 304-A IPC vide judgment dated 26th July,2002. 3. It is against this judgment the petitioner has filed this revision petition. 4. Although detailed facts of the prosecution case finds place in the judgments of both the Courts yet it is necessary to reproduce the facts of the case in brief. On 10th May, 1993 one scooter bearing registration No. DAA/1668 being driven by Mr. Surinder Pal Singh came from Turkman Gate side at 12.30 PM and turned towards Jawaharlal Nehru Marg and was going towards Ajmeri Gate side. The offending truck driven by the appellant bearing registration No. DHL-1893 was coming towards the side of LNJP Hospital at the high speed and struck against scooter from behind as a result of which rider of the two-wheeler fell down and became unconscious. PW 1 Mr. Bishambar Dayal who was there on a scooter standing at chowk near Zakir Hussain College had witnessed the accident. Since the appellant accelerated his truck and sped away after hitting the scooterist, PW1 chased him on a scooter and ultimately succeeded in apprehending the appellant at Minto Road. The public had gathered there and the appellant was brought to the spot by the public. Necessary investigation was carried out including taking the possession of the truck as also of the scooter of the deceased of which mechanical inspection was carried out. 5. The prosecution had examined five witnesses including the eye witness Bishambhar Dayal PW-1. I have perused the judicial record including the testimony of PW-1 on whose statement FIR of this case was registered. I have also gone through the judgment rendered by Metropolitan Magistrate as well as of Additional Sessions Judge. 6. Learned counsel for the petitioner has urged that no evidence was brought on record by the prosecution to establish that the appellant was driving the offending vehicle in a rash and negligent manner and this being the essential ingredient of the offence in question the Metropolitan Magistrate erroneously hold the appellants guility of the crime. 7. I am not in agreement with the submissions of the learned counsel for the appellant. Merely because the witnesses did not use the words rashness or negligent in his testimoney and instead used the words high-speed, cannot be taken that the appellant was not driving the vehicle in a rash or negligent manner, what is important is to find out if the driver of the offending vehicle was driving in public place rashly and in negligent manner so as to endanger human life or to be likely to cause hurt or death to any other

person. In the case in hand the appellant hit the scooterist from behind. It is not the case of the appellant that the scooterist had applied break all of a sudden and therefore the appellant was taken unaware which led the appellant's truck hitting the scooter from behind. Act of negligence can be clearly attributed to the petitioner in this case as he is solely responsible for causing this accident without any fault of the scooterist. Rashness or negligence can be determined from the manner in which the accident had take place. Even the site plan prepared by the Investigator which was exhibited as PW 5-C speaks about the negligence attributed to the petitioner. The appellant also admitted in his statement under Section 313 of the Code of Criminal Procedure that accident had taken place with his truck but denied that it was due to negligent and rash driving on his part. 8. The appellants also did not assail the statement of PW-1 as no effective cross-examination was conducted on this witness. 9. I find no infirmity in the judgment rendered by the Additional Sessions Judge, Delhi. Rather the Additional Sessions Judge was benevolent in reducing the sentence to 9 months and 3 months respectively and petitioner should have felt satisfied with such reduction. Petitioner has invoked the provisions of Section 397 of the Code of Criminal Procedure which can only be invoved where some impropriety or irregularity or incorrectness is noticed in the judgment or order as the case may be. The present case does not fall in either of the category. Consequently the impugned judgment rendered by Additional Sessions Judge is maintained resulting in dismissal of the revision petition. The petitioner is directed to surrender before concerned Metropolitan Magistrate immediately for the purposes of serving the sentence as awarded by learned Additional Sessions Judge. In case petitioner does not surrender before the Metropolitan Magistrate, pursuant to the dismissal of the revision petition, the learned Metropolitan Magistrate shall issue arrest warrants against him.