

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRIMINAL REVISION NO. 230 OF 2008**

Shrawan Singh S/o Late Shri Ram Kumar, aged 40 years, R/o Village Soniyapath, Police Station- Saragaon, District Janjgir-Champa (C.G.)

**... Applicant**

**Versus**

1. State of C.G., through Police Station Saragaon, District Janjgir-Champa (C.G.)

2. Shivnath Singh @ Lalu Singh Rathore S/o Rajeshwar Singh, aged 25 years, R/o Village Soniyapath, Police Station- Saragaon, District Janjgir-Champa (C.G.)

**... Non-applicants**

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|---------------------|---|-----------------------------------------|
| For Applicant       | : | None.                                   |
| For Respondent No.1 | : | Mr. Vinod Deshmukh, Dy. Govt. Advocate. |

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**Hon'ble Shri Deepak Gupta, Chief Justice**  
**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**Per Deepak Gupta, C.J.**

**31/08/2016**

1. None for the Applicant. This matter is of the year 2007. Since it is a very old matter arising out of an incident which took place on 21.1.2007, we have carefully perused the records and proceed to decide the present revision petition.

2. Brief facts of the case are that the accused Shivnath Singh @ Lalu Singh and the deceased Ramkumar Rathore, father of the Applicant, were neighbors. They had shops close to each other. Both had tractors. From the evidence came on record, it is apparent that on 20.1.2007 the Tractor of the accused got struck in a Nullah. He therefore sent his driver to borrow the Tractor of the deceased Ramkumar Rathore so that his Tractor could be used to pull out the Tractor of the accused. It is also apparent that the present Applicant,

who is son of the deceased, objected to the Tractor of his father being used to pull out the Tractor of the deceased and he asked the driver to bring back the Tractor without pulling out the Tractor of the accused. Therefore, an altercation did take place.

**3.** Further allegation is that on the next date early in the morning at 7am when the wife of the deceased i.e., PW-1, Kero Bai, was sweeping the area around the front door and her husband was sitting inside his shop at that time the accused came there and he was using foul abusive language. The accused was carrying a rod. He entered the shop of the deceased and gave one blow on the head of the deceased. The deceased sustained injuries. It is also an admitted fact that the deceased was suffering from epilepsy. He was taken to the Primary Health Centre and then referred to CIMS Hospital and from there he was referred to Apollo Hospital and finally he was referred to Bimla Devi Hospital. He was operated upon but died six days later on 27.1.2007.

**4.** Learned Court below came to the conclusion that the incident had taken place and held that since the only blow had been given and further that the death has not been caused immediately, the accused was guilty not of murder but the offence of culpable homicide not amounting to murder. The accused was convicted and sentenced to undergo rigorous imprisonment for three years.

**5.** We are exercising revisional jurisdiction. We cannot substitute our opinion for the opinion of the Court below. We in exercise of revisional jurisdiction can only decide whether legal procedure has been followed. We can interfere and set aside the judgment only if we find that there is some gross illegality or perversity in the orders of the Court below. Merely because another view is possible is not sufficient ground to interfere in revisional jurisdiction.

6. In the present case, the learned Trial Court has come to a view which is a possible view. It cannot be said that this view is perverse. The learned Trial Court while coming to the conclusion that this is not a case of murder taking into consideration the nature of injuries and the number of blows. These all factors which are to be taken into consideration. We are thus clearly of the view that this is not a case where we can invoke the revisional jurisdiction to set aside the order of the learned Trial Court.

7. In this view of the matter, we find no merit in the present Criminal Revision. It is dismissed.

Sd/-  
**(Deepak Gupta)**  
Chief Justice

Sd/-  
**(P. Sam Koshy)**  
Judge