

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.960 of 2016**

Ramjanam Singh son of Vishwanath Singh, aged about 47 years, resident of Adarsh Nagar, Kusmunda, Quarter No.B-329, Police Station, Kusmunda, District Korea (CG).

---- Applicant

Versus

The State of Chhattisgarh, the Station House Officer, Police Station, Kusmunda, District Korba (CG).

---- Respondent

For applicant
For respondent/State

Shri Gautam Khetrapal, Advocate.
Shri Bhaskar Pyasi, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

29/11/2016

1. The present revision has been preferred against the judgment of conviction dated 28.04.2014 passed by the JMFC, Katghora, in Criminal Case No.1406/2006 whereby the applicant has been found guilty for the offence under Sections 279 and 337 IPC and have been sentenced to pay fine of Rs.500/- for each offences. In case of default, simple imprisonment of 15 days was also ordered. Against the said order, the applicant has preferred an Appeal which was registered as Criminal Appeal No.17/2014 and the appellate court also vide judgment dated 15.07.2016 has affirmed the judgment passed by the JMFC, Katghora, affirming conviction of applicant for both the offences.
2. Learned counsel appearing for the applicant submits that it is a case where the court below has not properly appreciated the evidence which

have come on record on behalf of the prosecution and have passed the impugned judgment of conviction. It is a case where admittedly the applicant was operating the Dozer used for the transportation of coal within the mining area and that the place of incident was also a restricted area where the outsiders and civilians were not permitted. Referring to evidence of injured eyewitness PW-3, Satyanarayan Agrawal, it is submitted that as per PW-3 also it is a case where the accident took place from the front portion of the Dozer which was being operated by the applicant. The accident took place while the vehicle was being driven on the reverse and the fact that the Dozer did not hit the injured persons from the rear side of the vehicle itself establishes that there was negligence on the part of the injured persons and not the applicant who was driving the Dozer, and therefore, the conviction of the applicant is bad in law.

3. It was also contended by the counsel for the applicant that the place where the accident occurred was not a place from where the injured persons i.e. PW-1 Raghvendra and PW-3, Satyanarayan Agrawal, were supposed to travel and the present applicant who was the Dozer operator would not have the visibility of persons coming from the rear side of the vehicle at a close distance which had led to the accident and there was no negligence on the part of the applicant for the alleged accident. Thus, prayed for quashing of the impugned judgments of conviction.
4. Learned counsel for the State, however, opposing the revision submits that it is a case where the evidence which have come on record evidently shows that the two injured persons i.e. PW-1 and PW-3 who

were travelling on a motorcycle, on seeing the Dozer coming on reverse had taken precaution by parking the motorcycle on the side of the road so as to avoid any untoward incident, but because of rash and negligent driving of the said Dozer by the applicant, they were hit by the Dozer and PW-1 and PW-3 sustained injuries.

5. The State counsel further referring to the evidence of PW-1 & PW-3, the two injured eyewitness, submits that from the evidence of both these witnesses it is established that the place of incident was being used by other persons also who were working in the coal mines. Referring to evidence of PW-1, state counsel drew the attention of the court that the place where PW-1 and PW-3 took shelter was a place where there were ditch on either side of the road. Therefore, they could not have come down of the road to avoid the accident and it was the applicant who ought to have been more careful while the vehicle was being driven on the reverse direction. Thus, prayed for rejection of the revision.
6. Having considered the rival contentions put forth on either side and on perusal of the records, what clearly comes out from the evidence of PW-1, Raghvendra, the injured eyewitness, is the fact that they were working at coal loading plant and the coal loading plant was just about 100-150 meters away from the place of incident and that this was the only road where the injured persons to travel for reaching the said place of work and that was usual road which was taken by the injured persons. Further, from the evidence of PW-1 it also reflects that the said road was being used by other vehicles also and also by the employees working in the coal mines. From his deposition, it is also evidently clear that it was the present applicant who was driving the Dozer at the

relevant point of time, as PW-1 has identified him to be the person driving the vehicle on the said date of incident. Further, if we look into the statement of other injured person, PW-3, it is also reflected from his evidence that the distance from where the applicant had started reversing the vehicle was almost more than 50 meters away from where the injured were coming and in spite of making hue and cry, the present applicant did not hear or see the persons standing on the side of the road and dashed them (PW-1 & PW-3) from the front portion of the said Dozer.

7. From the given facts and circumstances of the case it is evidently clear that the incident occurred while the vehicle was being reversed by the applicant. Further, the negligence also stands established from the fact that in spite of PW-1 and PW-3 taking all precautions from avoiding collision of his motorcycle with the Dozer, but because of the rash and negligent driving of Dozer by the applicant, front portion of the said Dozer hits the motorcycle due to which both of them (PW-1 and PW-3) sustained injuries.
8. Thus, for the aforesaid reasons, this court is of the opinion that the two courts below have not committed any infirmity or illegality while reaching to the conclusion of having proved the guilt against the applicant of having committed the offence under Sections 279 and 337 IPC.
9. Accordingly, the revision being devoid of merit is liable to be and is hereby dismissed.

SD/-
(P. Sam Koshy)
Judge