

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO. 1861 OF 2000

The State of Madhya Pradesh

... Appellant

Versus

Chudamani, S/o Shri Badri Prasad Aditiya, aged about 25 years, R/o Village Kharaud, Police Station Shivari Narayan, District Janjgir (M.P.)

... Respondent

For Appellant	:	Mr. Ashish Shukla, Govt. Advocate.
For Respondent	:	Mr. Ravindra Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

18/01/2017

1. The present criminal appeal has been preferred by the Appellant-State against the judgment dated 8.5.2000 passed by the Judicial Magistrate First Class, Janjgir, in Criminal Case No. 385 of 2000.
2. It is a case where the Court below in the said criminal case where the respondent-accused was prosecuted for the offence under Sections 279 and 304-A of IPC and Section 3/181 of the Motor Vehicles Act, has punished him with only fine of Rs.200/- under Section 279 of IPC, Rs.1000/- under Section 304-A of IPC and Rs.100/- under Section 3/181 of the Motor Vehicles Act.
3. The present appeal was filed as early as on 21.7.2000 before the High Court of Judicature at Jabalpur in the undivided State of Madhya Pradesh. Subsequently, on reorganization, the matter has been transferred to this Court and since then the matter was pending consideration before this Court. After the matter being allotted to this Court, the appeal for the first time came up for hearing on 18.12.2015. Surprisingly, the State for all these 15 years of time did not make any efforts for listing the appeal for early disposal. It is the State's appeal under Section 377 of CrPC, wherein they are seeking for enhancement of the sentence.

4. There are certain striking facts which are relevant for the adjudication of the present appeal. That the impugned judgment was passed on 8.5.2000. The present appeal under Section 377 of CrPC was filed as early as on 21.7.2000. On 1.11.2000, the State of Chhattisgarh was carved out and the High Court became functional from the very said date. The present appeal got transferred from the State of Madhya Pradesh to this Court immediately. For the first time, the matter came up for hearing before this Court on 18.12.2015. That is to say that after almost more than 15 years from the time it was transferred to this Court. During this 15 years of time, the Appellant-State did not make any efforts in getting the matter listed or shown any keenness in seeking for the enhancement of the sentence imposed upon the respondent-accused.

5. The respondent-accused in the instant case appeared before the Court below on 8.5.2000 and had pleaded guilty at the first instance itself, and upon his pleading guilty the Court below only imposed punishment of fine against the respondent-accused, as enumerated in the preceding paragraph. It is almost about 16½ years elapsed from the date the impugned judgment having been passed.

6. From the FIR and the report which is available with the State Counsel it also reflects that the deceased as well as the respondent-accused were travelling on the same motorcycle when the accident occurred and it was the respondent-accused who had lodged the FIR.

7. Counsel for the Appellant-State at this juncture submits that the Court below has misconducted himself to the extent of not conducting the trial in a proper way inasmuch as the Court below ought to have conducted a full-fledged trial before punishing the respondent-accused. He further submits that the Court below has proceeded with the matter and conducted the case as a summary trial which is not permissible under law.

8. At this juncture, after more than 16½ years of time having been lapsed. Moreover, a report has also been received from the Record Keeper, District Court, Bilaspur, intimating this Court that the original record of the present appeal has already been destroyed in due course of time on 13.2.2003 itself, as is reflected from the record maintained by the Record Room of the District Court, Bilaspur. Another aspect which has to be seen is that, even if it is accepted that the Court below has not properly conducted the trial, no fruitful purpose now would be served if the matter is remitted back and the Court below is directed to conduct the trial afresh, for the reason that the record of the case itself at the first instance is not available. The evidence, the witnesses may also not be now available to be adduced before the Court below. In addition, even after the conducting of full-fledged trial, the Magistrate is yet conferred with the power of either imprisonment or fine or both. In the instant case, the Court below has imposed the fine which the respondent-accused has already deposited. In the said factual matrix of this case, this Court is of the opinion that, no fruitful purpose would be served if the appeal is entertained any further on merits and is remitted back.

9. Accordingly, the appeal preferred by the State is dismissed as this juncture.

Sd/-
(P. Sam Koshy)
Judge