

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.5 of 2006

Damodar, S/o Sabbar, Caste Oriya, aged about 38 years, Occupation Driver,
R/o Khursipar, P.S. Chhawani, District Durg, Tahsil and District Durg,
Chhattisgarh

---- Applicant

versus

State of Chhattisgarh

--- Respondent

For Applicant	:	Shri Praveen Dhurandhar, Advocate
For State/Respondent	:	Shri Neeraj Mehta, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

6.12.2017

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 14.12.2005 passed in Criminal Appeal No.92 of 2001 by the Additional Sessions Judge, Balod, District Durg by which the Learned Additional Sessions Judge has affirmed the judgment dated 17.5.2001 passed in Criminal Case No.441 of 2001 by the Judicial Magistrate First Class, Balod convicting and sentencing the Applicant as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 304A of the Indian Penal Code	Rigorous Imprisonment for 6 months and fine of Rs.50/- with default stipulation

2. Case of the prosecution, in brief, is that on 5.8.1990 at about 7:00 a.m., Chhallu Ram (deceased), aged about 7 years, along with his friends was playing in front of the courtyard of his uncle. At that time, the Applicant, driving a Crane bearing registration No.CPS 9096 rashly and negligently, inserted the crane inside the said courtyard. As a result of which, the courtyard fell down, Chhallu Ram pressed thereunder and died. The Applicant began to run

away, but he was caught by the villagers. The matter was reported on the basis of which crime under Section 304A of the Indian Penal Code was registered in Police Station Balod against the Applicant vide First Information Report (Ex.P3). On completion of the investigation, a charge-sheet was filed against the Applicant for offence punishable under Section 304A of the Indian Penal Code. Charge was framed against him under Section 304A of the Indian Penal Code.

3. After trial, the Trial Court convicted and sentenced the Applicant and the Appellate Court affirmed the judgment of conviction and sentence as mentioned in the first paragraph of this order. Hence, this revision.
4. Learned Counsel appearing for the Applicant submits that he does not press this revision on merit and confines his argument to the sentence part only. He further submits that out of the total jail sentence of 6 months, the Applicant has already undergone about 1 month. He is facing the *lis* since 1990. He has no criminal antecedent. Therefore, the sentence awarded to him may be reduced to the period already undergone by him.
5. Per contra, Learned Counsel appearing for the State supported the impugned judgment.
6. I have heard Learned Counsel appearing for the parties and perused the record with due care.
7. Having regard to the facts and circumstances of the case, I am of the considered opinion that the interest of justice would be served if, while upholding the conviction imposed upon the Applicant, he is sentenced with the period already undergone by him and the

sentence of fine is enhanced to Rs.20,000/-. Ordered accordingly. The amount of fine imposed/enhanced today shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment, the Applicant shall be liable to undergo simple imprisonment for 2 months. If any amount has already been deposited towards fine, the same shall be adjusted against the amount of fine imposed/enhanced today. On recovery of the above amount of fine, under Section 357 of the Code of Criminal Procedure, the same be paid as compensation to the parents of the deceased within one month of the recovery. In case, none of the parents of the deceased is alive, the same be paid to the legal heirs of the deceased.

8. Consequently, the revision is allowed in part to the extent indicated above.
9. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge