

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 73 of 2006

Order reserved on : 20.01.2017

Order passed on : 08.02.2017

- Inder Sai, s/o Birbal Sai, aged about 32 years, Occupation - Cultivation, R/o Vill- Khamhar, PS Lailunga, Distt- Raigarh (CG)

---- Applicant

Versus

- State of Chhattisgarh through District Magistrate, Raigarh (CG)

---- Respondent

For Applicant : Shri KN Nande, Advocate

For Respondent/State : Shri Suryakant Mishra, PL

Hon'ble Shri Justice Anil Kumar Shukla

CAV Order

1) This revision has been preferred against the judgment dated 24.01.2006 passed in Criminal Appeal No. 80 of 2005 by the Session Judge, Raigarh by which the judgment dated 20.06.2005 passed in Criminal Case No. 473 of 2004 by the Judicial Magistrate First Class, Gharghoda, district-Raigarh convicting the applicant for the offences punishable under Sections 304(A) IPC and 146/196 of the Motor Vehicles Act and sentencing him to undergo rigorous imprisonment for six months and to pay fine of Rs.500/-, in default of payment of fine, to further undergo RI for two months has been altered and sentence of the applicant has been reduced to RI for one month and fine amount has been increased to Rs.10,000/-, in default of payment of fine, to further undergo RI for five months. The applicant has paid the fine amount of Rs.500/- imposed on him by the trial Court.

2) Prosecution story, in brief, is that on 30.05.2004, deceased-Bhokodolo @ Tajdar along with two others, namely, Chakradhar and Sabharibai was going for work on a tractor bearing No.CG-13 A- 2653. Present applicant was driving the tractor. The said tractor was going to Aamaghat brick kiln for taking bricks that are to be left at Dogamoha. Due to rash and negligent driving of the applicant, the tractor bounced off at a speed braker at Libera School and the deceased came under the wheels of trolley of the tractor. The deceased was taken to Libera Hospital for treatment, where he died during the treatment. Chakradhar reported the incident to the Police Station Tamnar where the Police registered a case under Sections 304 (A) of the IPC and 146/196 of the Motor Vehicle Act. After completion of investigation, charge-sheet was filed against the applicant in the Court of Judicial Magistrate First Class, Gharghoda, district Raigarh. Criminal Case No. 473 of 2004 was registered against the applicant and by the judgment dated 20.06.2005 he was convicted and sentenced as mentioned above in the first paragraph of this order. Being aggrieved by this judgment, the applicant preferred Criminal Appeal No. 80 of 2005 before the Court of Session at Raigarh in which the Session Judge, Raigarh by judgment dated 24.01.2006 while confirming conviction of the applicant, reduced his sentence to RI for one month and increased the fine amount to Rs.10,000/-, in default of payment of fine, to further undergo RI for five months. This revision has been filed for setting aside the impugned judgment of the appellate Court.

3) I have heard learned counsel for the parties, perused the judgment impugned, statements of the witnesses and other documents relevant to the present case.

4) Learned counsel for the applicant at the outset submits that he confines his argument to the sentence part only and does not challenge the conviction imposed upon the applicant. Addressing the sentence part awarded to the applicant, learned counsel submits that on the date of the incident, the applicant was aged about 32 years and now he is 45 years old; out of the jail sentence of one month RI awarded to him, he has already undergone 14 days and deposited fine amount of Rs.500/- imposed upon him in the trial Court; the applicant was on bail during trial; and there is no criminal antecedent against the applicant. The incident is of the year 2004 and already 13 years have passed, therefore, learned counsel prays to reduce the jail sentence of the applicant imposed upon him to the period already undergone by him and also prays to reduce the fine amount imposed upon him by the appellate Court.

5) On the other hand, learned State counsel opposed the revision and supported the impugned judgment though not disputed the above facts.

6) It is not in dispute that the applicant is now 45 years old; there is no criminal antecedent against him and the present offence is his first one, for which he faced trial, appeal & the present revision for the past 13 years. He remained in custody for 14 days and the total sentence awarded to him is one month.

7) Considering all the facts and circumstances of the case, also considering that the present applicant is 45 years old, his custody period as well as the period passed in trial, appeal and revision, I am of the considered opinion that ends of justice would be met if the jail sentence awarded to the applicant is reduced to the period already undergone by

him. It would not be in the interest of justice to send him back to Jail after a long gap of 13 years.

8) Accordingly, on the basis of the aforesaid discussion, the revision filed by the applicant is hereby partly allowed. This Court, while confirming the conviction of the applicant under Sections 304 (A) of the IPC and 146/196 of the Motor Vehicle Act, modifies the jail sentence to the period already undergone by the applicant and reduces the sentence of fine of Rs.10,000/- to Rs.500/- only, which the applicant has already paid.

9) It is reported that the applicant is on bail. His bail bonds are not discharged at this stage and shall remain operative for a further period of six months in view of the provisions contained under Section 437-A of the Cr.P.C.

Sd/-
(Anil Kumar Shukla)
JUDGE