

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.621 of 2007

Ramesh Kumar, aged about 35 years, S/o Babulal Sahu, R/o Village Tipani,
P.S. Thankhamhariya, Tahsil Saja, District Durg, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through District Magistrate, Kawardha, District
Kabirdham

--- Respondent

For Applicant	:	Shri Arvind Kumar Dubey, Advocate
For State/Respondent	:	Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

1.9.2017

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 22.11.2007 passed in Criminal Appeal No.33 of 2007 by the Sessions Judge, Kabirdham (Kawardha) dismissing the appeal and affirming the judgment dated 20.8.2007 passed in Criminal Case No.294 of 2006 by the Judicial Magistrate First Class, Kabirdham convicting the accused/Applicant under Section 304A of the Indian Penal Code and sentencing him to undergo rigorous imprisonment for 1 year and to pay fine of Rs.1,000/- with default stipulation.
2. Case of the prosecution, in brief, is that on 5.4.2006 at about 11:30 a.m. at Village Jamuniya, near Lok Marg, while Ramju Khan was going on his bicycle, a Maruti Van bearing registration No.CG 07 9357 dashed the bicycle due to which Ramju Khan sustained grievous injuries. He was immediately hospitalised, where he succumbed. It is alleged that the accused was the driver of the said Maruti Van. The matter was immediately reported by Badik

Khan (PW-1). After investigation, a charge-sheet was filed against the accused under Sections 279 and 304A of the Indian Penal Code.

3. After trial, the Trial Court convicted and sentenced the accused as mentioned in the first paragraph of this order. In appeal, the judgment of the Trial Court has been affirmed.
4. Learned Counsel appearing for the Applicant submits that he does not press this revision on merits and confines his argument to the sentence part only. He further submits that the matter is of the year 2006 and out of the total jail sentence of 1 year, the accused has already undergone the period of about 1 month and 16 days. He further submits that the accused has no criminal antecedent and he is facing the *lis* since 2006, i.e., for about 11 years. Therefore, the jail sentence awarded to the accused may be reduced to the period already undergone by him.
5. On the contrary, Learned State Counsel opposed the revision and supported the impugned judgment.
6. It is not in dispute that the matter relates to the year 2006 and the accused is facing the *lis* for the last 11 years. He has no criminal antecedent. Out of the total jail sentence of 1 year, he has already undergone the period of about 1 month and 16 days.
7. Considering the above facts and circumstances of the case, I am of the considered opinion that the ends of justice would be served if, while upholding the finding of conviction, the jail sentence awarded to the accused/Applicant is reduced to the period already undergone by him and the amount of fine imposed upon him is

enhanced to Rs.10,000/-.

8. Consequently, the criminal revision is allowed in part. The conviction imposed upon the accused/Applicant under Section 304A of the Indian Penal Code is upheld, but the jail sentence awarded to him thereunder by the impugned judgment is reduced to the period already undergone by him. The sentence of fine imposed upon him is modified and the amount of fine is enhanced to Rs.10,000/- payable within 2 months from the date of receipt of a copy of this order. In default of payment of the fine amount, the accused/Applicant shall be liable to undergo rigorous imprisonment for 3 months. The amount of fine already deposited shall be adjustable in the amount of fine imposed today.
9. It is reported that the Applicant is on bail. His bail bonds are not discharged at this stage and the same shall remain operative for a further period of six months from today in view of the provisions contained in Section 437A of the Cr.P.C.
10. 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