

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 710 of 2006

Sobhit Ram S/o. Shri Prem Lal Sahu, aged about 35 years, R/o.
Village Chiraigarhi, Police Station Balod, District Durg (C.G.)

----- Applicant

Versus

State of Chhattisgarh, Through Police Station Balod District Durg
(C.G.)

----- Respondent

For Applicant : Mr. Avinash Chand Sahu, Advocate
For Respondent/ State : Mr. Gary Mukhopadhyay, Govt. Advt.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

22.10.2018

1. This revision is directed against the judgment of conviction and order of sentence dated 20.11.2006 passed by the Additional Sessions Judge, Balod District Durg in Criminal Appeal No. 320 of 2005 affirming the judgment of conviction and order of sentence dated 01.08.2005 passed by the Judicial Magistrate, First Class, Balod District Durg in Criminal Case No. 792/2004 where learned Magistrate had held the applicant guilty under section 304-A IPC and sentenced him to undergo rigorous imprisonment for 1 year with fine of Rs. 1000/- plus default stipulation.

2. Case of the prosecution, in brief, is that on 04.09.1997 when the deceased was returning from school on her bicycle, on the way the accused/applicant- the driver of the offending vehicle hit her and thereby caused her on-the-spot death as a result of rash and negligent driving. FIR (Ex.P-8) was lodged against the applicant. Based on this report, offence under Section 304-A IPC was registered against him.

3. Having taken note of the material on record the Trial Court convicted and sentenced the applicant as mentioned above which subsequently has been affirmed by the lower appellate Court by the judgment impugned. Hence, this revision.

4. Learned Counsel appearing for the applicant submits that he is not pressing this revision on merit and confining his argument to the sentence part thereof only. He submits that the applicant has already remained in jail for 15 days, that the incident had taken place about 15 years back and that no criminal antecedent is there against him, and therefore, keeping in view all these things, substantive sentence imposed on him may be reduced to the period already undergone by him.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. I have heard learned counsel for the parties and perused the judgment impugned as also the evidence available on record, carefully.

7. Though there is a prayer only in respect of sentence part of the judgment impugned, this Court is required to deal with the conviction part thereof as well on merit.

8. Taking a composite view of the matter including the evidence of PW-1, PW-2, PW-5, PW-9 and PW-15, it becomes crystal clear that on the date of incident when the deceased was getting back from her school, the vehicle in question being driven in rash and negligent manner by the accused/applicant hit her bicycle and crushed over her body leading to her spontaneous death. Father of the deceased has even stated that the tractor had crushed her to death by running over her chest. Almost all the witnesses have categorically stated that the body of the deceased was lying on the spot with her damaged bicycle dumped nearby. It has also come in the evidence of the witnesses that when the accused/applicant was trying to flee away, the people present there caught hold of him and started beating him. Thus, it is manifest that it is the accused/applicant who caused the death of the deceased as a result of rash and negligent act while driving the offending vehicle.

9. Thus, the prosecution has established its case beyond reasonable doubt and so also both the Courts below have also been justified in appreciating the evidence adduced by it holding the accused/applicant guilty under Section 304-A IPC. No illegality is apparent in the finding of conviction recorded in the

judgment impugned warranting interference there with. It is thus affirmed.

10. As regards sentence, keeping in view the fact that the incident had taken place about 21 years back and that the applicant has already remained in jail for a period of 15 days, this Court is of the opinion that it would be in the interest of justice to reduce the sentence to the period already undergone by him. However, the sentence of fine imposed by the Court below is enhanced to Rs. 10,000/- from that of Rs. 1,000/-. Let the entire fine amount be deposited by the accused/applicant in the trial Court within a period of three months from today by adjusting the amount of fine already deposited, if any.

11. With the aforesaid observations and modifications in the judgment impugned, the revision stands allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE