

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 655 of 2006

Manbhulwa son of Jagannath Prasad Sahu, aged about 32 years, resident of village Donga, Kaharoud, Police Station Pamgarh, Tahsil Janjgir, District Janjgir Champa, CG

--- Applicant

Versus

State of Chhattisgarh through District Magistrate, Janjgir Champa, District Janjgir Champa, CG

--- Respondent

For Applicant	-	Shri Gurudev Sharan, Adv.
For Respondent	-	Smt. M. Asha, PL

Order on Board by Hon. (Smt.) Justice Vimla Singh Kapoor

27.11.2018:

By this revision petition the applicant has assailed the judgment dated 31.10.2006 passed by Sessions Judge, Janjgir Champa in Criminal Appeal No. 01/2006 affirming the judgment dated 25.08.2004 passed by Judicial Magistrate First Class, Janjgir in Criminal Case No. 878/2002 convicting the accused/applicant under Sections 279, 337 and 304-A IPC and sentencing him to undergo RI for one month u/s 337 and RI for six months u/s 304-A IPC. No sentence has however been imposed on accused/applicant under Section 279 IPC.

2. Facts of the case in short are that on 25.09.1996 at about 7 AM when Ram Prasad and his wife Baisakha Bai (PW-3) were going to the hospital for the treatment of their minor son Sandip, the accused/applicant came there driving a tractor bearing registration No. MP-26-E 2097 in a rash and negligent manner and hit the bicycle ridden by Ram Prasad, as a result of which all three fell off the bicycle and suffered injuries on their body. The head injury suffered by the one-year-old Sandip led to his death also. On

this, report Ex.P-7 was lodged by Ram Prasad; he and his wife (PW-3) were medically examined vide reports Ex. P-4 and P-5, and the postmortem was conducted on the body of Sandip vide Ex. P-6

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted and sentenced the accused/applicant as described above, which has been affirmed even on appeal by the judgment impugned. Hence this revision.

4. Counsel for the applicant submits that his main prayer is to the sentence part of the judgment impugned and not that of conviction. He submits that looking to the fact that the incident had taken place 23 years back, that the applicant has already remained in jail for about 10 days and further that for both the offences i.e. under Sections 337 and 304-A IPC the jail sentence is not mandatory and the fine alone would do, it would be in the interest of justice if the sentence imposed on him is reduced to the period already undergone.

5. State counsel however supports the judgment impugned.

6. Having gone through the material on record and the evidence of the witnesses including that of Baisakha Bai (PW-3) and Dr. D.C. Choudhary (PW-6) who medically examined Ram Prasad, Baisakha Bai and conducted postmortem examination on the body of Sandip, this Court does not see anything warranting interference with the conviction of the accused/applicant because it is apparent that on account of his rash and negligent act one life has gone and the two suffered multiple injuries like abrasions – may be simple in nature. In this view of the matter, conviction of the accused/applicant under Sections 294, 337 and 304-A IPC being in conformity with the material available on record and it is accordingly maintained by this Court also. However, looking to the incident being quite old, that the applicant has already remained in jail for about ten days, and

further that the jail sentence for the offences alleged is not mandatory, this Court thinks it proper and in the interest of justice if the sentence imposed on the accused/applicant is reduced to the period already undergone. Order accordingly.

7. Revision is thus partly allowed as indicated above.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi