

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 561 of 2005

1. Ramkumar Yadav son of Ram Kishun aged about 25 years,
R/o village Mahant, PS Navagarh, District Janjgir Champa, CG

--- Applicant

Versus

1. State of Chhattisgarh through DM Korba, CG

--- Respondent

For Applicant	-	Shri Abhijeet Sarkar, Advocate.
For Respondent/State	-	Shri Gary Mukhopadhyaya, GA

Order on Board by Hon'ble Smt. Vimla Singh Kapoor, J.

11.12.2018:

Judgment under challenge in this revision petition is dated 21.12.2005 passed by Sessions Judge, Korba in Criminal Appeal No. 22/2005 whereby the findings recorded by Chief Judicial Magistrate, Korba convicting the accused/applicant under Sections 279, 337 and 338 IPC and sentencing him to undergo RI for three months u/s 279 and RI for six months u/s 337 and 338 IPC each, have been affirmed.

2. Facts of the case, in short, are that on 05.10.2002 at about 7 PM the accused/applicant was carrying Ramkhilawan, Shatrughan, Saraswati Bai and Kumari Bai to village Bhaisma from Korba in an auto rickshaw bearing registration No. CG-12-8864 and that when on seeing the truck coming from opposite direction, he applied sudden brake on account of which it turned turtle making the

persons on board suffer injuries – some grievous and some simple. On the report Ex.P-1 lodged by Shantilal (PW-1), offences under Sections 279, 337 and 338 IPC were registered against the applicant and then the injured persons were sent for medical examination. After investigation, the *challan* was filed and the charge was framed against the accused/applicant.

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. The findings recorded by the trial Court have subsequently been confirmed by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.

4. Counsel for the accused/applicant submits that he is not pressing this revision as far as conviction part of the judgment challenged therein is concerned, and would confine his argument to its sentence part only. He submits that as the incident had taken place in the year 2002, that he has remained in jail for three days and that the persons injured in the incident got recovered within a short period, the sentence imposed on him may be reduced to the period already undergone.

5. On the other hand, counsel for the respondent/State supports the judgment impugned as a whole.

6. Heard counsel for the parties and perused the evidence on record.

7. Having heard counsel for the parties and perused the material available on record including the evidence of injured Saraswati Bai (PW-2), Ramkhilawan (PW-3), Shatrughan Das

(PW-4) and Kumari Bai (PW-5) who were the inmates of the auto rickshaw in question, it is apparent that the applicant was driving the said auto in a rash and negligent manner where on account of sudden application of brake, it turned turtle causing injuries to them. Dr. AK Tiwari (PW-6) who medically examined the injured persons has stated that though the injuries suffered by Ramkhilawan, Shatrughan Das and Kumari Bai were simple in nature yet one of the injuries suffered by Saraswati Bai (PW-2) was grievous in nature as she had suffered fracture of the little toe of the left foot vide x-ray report Ex.P-5, it is apparent that the findings recorded by the Courts below convicting the accused/applicant as shown above for causing simple hurt to Ramkhilawan, Shatrughan Das and Kumari Bai and grievous hurt to Saraswati Bai through his rash and negligent act, are just and proper and do not suffer from any illegality or infirmity warranting interference by this Court. Conviction is accordingly maintained.

8. As regards sentence, keeping in mind the fact that the incident had taken place in the year 2002 thereby leading to passage of 17 long years since thereafter, that the applicant has already remained in jail for about three days and that by now he must be under the burden of family responsibilities, this Court thinks it just and proper and in the interest of justice to reduce the same to the period already undergone. Order accordingly.

9. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)
Judge