

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 240 of 2009

1. Budhram son of Ramsingh, aged about 40 years, R/o Nayapara, Barsoor, Thana Barsoor, District Dantewada, CG

--- Applicant

Versus

1. State of Chhattisgarh through Police Station Mardum & District Magistrate, Jagdalpur.

--- Respondent

For Applicant	-	Shri P.K. Tulsiyan, Advocate.
For Respondent/State	-	Smt. M. Asha, PL

Applicant is also present.

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

14.11.2018:

Judgment under challenge in this revision petition is dated 27.04.2009 passed by Sessions Judge, Bastar (Jagdalpur) in Criminal Appeal No. 65/2008 whereby the findings recorded by Judicial Magistrate First Class, Bastar (Jagdalpur) convicting the accused/applicant under Sections 338, 337 (nine times) and 304-A IPC and sentencing him to undergo RI for six months with fine of Rs. 500/- u/s 338, RI for three months with fine of Rs. 200/- u/s 337 (nine times - totaling to 1800/-) and RI for one year with fine of Rs. 1000/- u/s 304-A IPC plus default stipulations, have been affirmed.

2. Facts of the case, in short, are that on 05.04.2007 a jeep bearing registration No. CG-17-ZD-0682 belonging to Kishore Prasad Nag (PW-3) being driven by the accused/applicant in a rash

and negligent manner turned turtle causing the death of one of its passengers namely Shriram Nag and the injuries to many being Shivani, Jaimani Bachhan, Shatrughan, Sumitra, Bhagchand, Sukhnath, Bolo, Dharendra, Anand, Diyochand, Sanjay and Rajkumar. Thereafter, on the report (Ex.P-1) lodged by Kihsoore Prasad Nag (PW-3), the offence alleged was registered against the accused/applicant and after completion of investigation *challan* was filed by the police.

3. After examining the material available on record and the evidence of the witnesses, the trial Court convicted and sentenced the accused/applicant as mentioned above. The findings recorded by the trial Court have subsequently been affirmed 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 2007, that the applicant has already remained in jail for about one and a half month and that by now the accused/applicant must be under the pressure of family liabilities, 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 the doctors (PW-16 and PW-18) it remains undisputed that on account of rash and negligent driving of the accused/applicant, one life has been lost and many suffered injuries, may be simple in nature except Subti (PW-4). Medical evidence shows that the injuries suffered by Subti (PW-4) being the fracture of upper portion of her right arm and that of temporal and occipital region of skull were grievous in nature. In that view of the matter, this Court does not find any illegality or infirmity in the conviction part of the judgment impugned which is hereby maintained.

8. As regards sentence, keeping in mind the fact that the incident had taken place in the year 2007 thereby leading to passage of 12 long years since thereafter, that the applicant has already remained in jail for about one and a half month and that he by now, must be leading a settled family life, this Court thinks it just and proper and in the interest of justice to reduce the same to the period already undergone. Order accordingly. Fine sentence is however kept as it is.

9. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge