

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 226 of 2004**

Sudama S/o Ramgual, aged about 30 years, Caste- Lodhi, Occupation- Driver,
R/o Village- Nandni, Tahsil- Dhamdha, District- Durg (C.G.).

---Applicant**Versus**

State of Chhattisgarh, through District Magistrate, Durg (C.G.).

---- Respondent

For applicant	:	Mr. Malay Shrivastava, Advocate
For Respondent	:	Mr. Ramakant Pandey, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**10/08/2018**

1. This revision has been preferred against the judgment dated 15/03/2004 passed by the Additional Sessions Judge, Bemetara in S.T. No. 48/2004 arising out of the judgment dated 06/01/2004 passed by the ACJM, Bemetara in Criminal Case No. 708/1998, convicting the accused/applicant under Sections 279, 337 (three counts), 338 and 304 (A) of the IPC and sentenced him to undergo RI for 6 months with fine of Rs. 500, RI for 3 months with fine of Rs. 500/- (each counts), RI for 1 year with fine of Rs. 1000/- and RI for 2 years with fine of Rs. 1500/-, respectively with default stipulations. All the sentences were directed to run concurrently.
2. As per prosecution story on 29/05/1997, the applicant was driving the truck bearing No. M.P.24 C/1344 which was carrying stones, loaded

from Sahaspur stone mines. One Khilawan S/o Sau along with Khilawan S/o Jethu were sitting on the stones which was loaded on the truck, whereas Jagdish (PW3), Govind (PW1) and Mohnu (PW2) and Dauwa were sitting in the cabin with the driver. It is alleged that on the way due to rash and negligent driving, the vehicle turned down and as a result of which both Khilawa S/o Sau and Khilawan S/o Jethu lost their lives on the spot. Mohnu (PW2) received grievous injuries and Jagdish, Dauwa and Govind received simple injuries. The report was lodged at police station- Saja and FIR was registered. After investigation, a charge-sheet was filed before the learned Magistrate. After recording the statement of prosecution witnesses, the learned trial Court convicted and sentenced the applicant as mentioned in paragraph one of this order, which was also affirmed by the Appellate Court.

3. Learned counsel appearing on behalf of the applicant submits that he does not want to press this revision on merits and confines his argument to the sentence part only. It is further submitted that the incident is of the year 1997, the applicant is facing this *lis* since 21 years, the applicant, in total, has undergone about 1 month 13 days and he has no criminal antecedent, therefore, the jail sentence awarded to him may be reduced to the period already undergone by him.
4. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.

5. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 2 years, the applicant has undergone about 1 month 13 days, he is facing this *lis* since 1997, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the applicant, the jail sentenced awarded to him is reduced to the period already undergone by him. However, the fine sentence of 1500/- imposed under Section 304-A is enhanced to Rs. 40,000/- and the fine sentence of Rs. 1000/- imposed under Section 338 of the IPC is enhanced to Rs. 5000/-. Ordered accordingly. The enhanced fine amount of Rs. 40,000/- under Section 304 (A) of the IPC and Rs. 5000/- under Section 338 of the IPC shall be deposited before the trial Court within 1 month from the date of receipt of copy of this order in addition to the fine already deposited. In default of payment, the applicant shall be liable to undergo RI for 4 months under Section 304 (A) of the IPC and RI for 1 month under Section 338 of the IPC.
7. After depositing the fine amount of Rs. 40,000/- under Section 304 (A) of the IPC by the applicant, Rs. 20,000/- shall be given to the Lrs of deceased- Khilawan S/o Jethu and Rs. 20,000/- shall be given to the Lrs of deceased- Khilawan S/o Sau as compensation. Further, after depositing the fine amount of Rs. 5000/- under Section 338 of the IPC by the applicant, the same shall be given to injured Mohnu as a compensation.

8. Consequently, the revision is partly allowed to the extent indicated above.
9. It is reported that the applicant is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge