

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 549 of 2004

- Sunil Kumar Vishwas, S/o. Sukumar Vishwas, Aged about 38 years,
R/o. PV Pakhanjore, PS Pakhanjore, District Kanker

---- Applicant

Versus

- State Of Chhattisgarh

---- Respondent

For Applicant	:	Shri Shivendu Pandya, Advocate
For Respondent/State	:	Shri R.K.Mishra, Dy.A.G.

Hon'ble Smt. Justice Rajani Dubey

Order on Board

29/06/2018

The present revision arises out of the impugned order and judgment dated 12.10.04 passed by the First Additional Sessions Judge, Kanker in Cr. Appeal No. 05/2003 whereby the learned appellate Court below has altered the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate first Class, Bhanupratappur vide its judgment dated 25.11.02 in Cr.Case No. 376/1998 for the offence under Sections 337 and 304-A IPC and sentenced to undergo RI for six months and 1 year respectively with fine of Rs. 250 plus default stipulation.

2. Brief facts of the case are that on the date of incident i.e. 06.09.98, when the deceased Pradeep Das was returning along with his friend Tapan Dharami from Petrol Pump by Luna, applicant who was driving the metadoor (407) rashly and negligently, dashed the

deceased resulting his death. Report was lodged in the police station Pakhanjore by one Amulya Das and based on this report, investigation was done and challan was filed.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 10 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 25.11.2002 learned Magistrate has convicted the accused/applicant for the offence under Sections 279/338 and 304-A IPC and has sentenced to undergo RI for six months and one year respectively with fine of Rs. 250/- with default stipulation. This order was appealed by the applicant and in the appeal, learned appellate Court has altered the conviction and sentence of the applicant. Hence the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the revision as far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 1998 and thereby more than 20 years have rolled by since then, the applicant has already remained in jail for about 25 days, no useful purpose would be served in again sending him to jail, therefore it would be in the interest of justice if the sentence imposed on him is reduced to the period already undergone by him. To this, counsel for the State has no serious objection.

7. In view of above, the fact that the incident had taken place in the year

1998 and further that the applicant has already remained in jail for about 25 days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of 25 days, his sentence is reduced to the period already undergone by him.

8. Revision thus partly succeeds.

Sd/-

(Rajani Dubey)
Judge