

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 576 of 2006**

Kanhaiyalal Sharma S/o Banwari Lal, aged about 40 years, R/o- Village- Kotaba, Thana Bagbahar, Distt. Jashpur (C.G.).

----Applicant

Versus

State of Chhattisgarh Through Police Station- Raigarh, District- Raigarh (C.G.).

---- Respondent

For Applicant	:	Mr. Sanjay Agrawal, Advocate
For Respondent	:	Mr. Sameer Behar, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

23/01/2018

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 18/09/2006 passed in Criminal Appeal No. 26/2006 by the Sessions Judge, Raigarh, whereby, the Learned Sessions Judge has affirmed the judgment dated 14/02/2006 passed in Criminal Case No. 84/2001 by the Judicial Magistrate First Class, Gharghoda, District- Raigarh convicting and sentencing the accused/Applicant as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 304(A) of the IPC	RI for 3 months and fine of Rs. 6000 with default stipulation.

2. Case of the prosecution, in brief, is that on 29/01/2001, complainant – Saitram Paikra lodged a report in Lailunga Thana alleging that when his wife (deceased) had gone for attending the call of nature, at that time,

accused/applicant, by rash and negligent driving, dashed her by vehicle no. MP23 L 1731. Offence under Section 304-A has been registered. After investigation, a charge-sheet has been filed. After trial, the applicant has been convicted and sentenced by the JMFC, Gharghoda vide order dated 14/02/2006. Against the said order, an appeal preferred by the applicant and the Sessions Judge, Raigarh has confirmed the said order of conviction and sentenced him as mentioned in paragraph 1 of this order. Hence this revision.

3. Learned Counsel appearing for the Applicant submits that he does not press this revision on merit and confines his argument to the sentence part only. He further submits that out of the total jail sentence of 3 months, the Applicant has already undergone about 8 days. He is facing the *lis* since 2006 i.e. for about 11 years. He has no criminal antecedent. Therefore, the 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
5. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the facts and circumstances of the case, particularly, that the occurrence took place in the year 2006, accused has already undergone about 8 days of jail sentence out of total jail sentence of 3 months, he is facing the *lis* since 2006 and he has no known criminal antecedent, I am of the opinion that the ends of justice would be met if, while upholding the conviction imposed upon the Applicant, he is

sentenced with one month RI and the fine imposed upon him is enhanced to Rs. 10,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within two months from the date of receipt of a copy of this order. In default of payment, the Applicant shall be liable to undergo simple imprisonment for 15 days. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

7. Consequently, the revision is partly allowed to the extent indicated above.
8. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge