

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 170 of 2005

Pawan Kumar Gupta S/o. Jugul Kishore, Occupation Agriculturist,
R/o. Village Pashupatipur, P.S. Basantpur, District Surguja (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate Ambikapur
District Surguja (C.G.)

---- Respondent

For Applicant : Mr. D.N.Prajapati, Advocate

For Respondent/ State : Ms. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

22.10.2018

1. This revision is directed against the judgment of conviction and order of sentence dated 07.04.2005 passed by the Additional Sessions Judge, link Court Ramanujganj District Surguja in Criminal Appeal No. 14 of 2004 affirming the judgment of conviction and order of sentence dated 31.01.2002 passed by the Judicial Magistrate, First Class, Ramanujganj District Surguja in Criminal Case No. 613/2000 where learned Magistrate had held the applicant guilty under section 304-A IPC and sentenced him to undergo simple imprisonment for 6 months with fine of Rs. 2000/- plus default stipulation.

2. Case of the prosecution, in brief, is that on 13.08.2000 FIR (Ex.P-2) was lodged by Devnandan Gond (PW-2) alleging that on that day when he was working in the field, one Mansingh came there and informed him that the accused/applicant herein ran over his son (Krishna) while pushing back the tractor with the help of other villagers including the deceased. FIR further says that after being hospitalized for treatment the deceased succumbed to the injuries sustained by him. Based on this report, offence under Section 304-A IPC was registered against the applicant.

3. Having taken note of the material on record the Trial Court convicted and sentenced the applicant as mentioned above which subsequently has been affirmed by the lower appellate Court by the judgment impugned. Hence, this revision.

4. Learned Counsel appearing for the applicant submits that he is not pressing this revision on merit and confining his argument to the sentence part thereof only. He submits that the applicant has already remained in jail for twenty five days, that the incident had taken place about 16 years back and that no criminal antecedent is there against him, and therefore, keeping in view all these things, substantive sentence imposed on him may be reduced to the period already undergone by him.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. I have heard learned counsel for the parties and perused the judgment impugned as also the evidence available on record, carefully.

7. Though there is a prayer only in respect of sentence part of the judgment impugned, this Court is required to deal with the conviction part thereof as well on merit.

8. The evidence of Lole (PW-3), Javed (PW-8) and Anjani Kumar (PW-9) makes it clear that the deceased died after coming under the tractor while it being pushed by many villagers including the deceased on the say of accused/applicant. (PW-9) has made a more specific statement to the effect that on the date of incident the accused/applicant had forced him and the other boys of the village including the deceased to ensure push-start of the tractor and if they did not do that, he had threatened to thrash them. The material thus categorically speaks that after being struck with the tractor being reversed by the applicant in a negligent manner, the deceased was shifted to the hospital where he died while taking treatment. Thus, the prosecution has established its case beyond reasonable doubt and so also both the Courts below have also been justified in appreciating the evidence adduced by it holding the accused/applicant guilty under Section 304-A IPC. No illegality is apparent in the finding of conviction recorded in the judgment impugned warranting interference there with. It is thus affirmed.

9. As regards sentence, keeping in view the fact that the incident had taken place about 18 years back and that the applicant has already remained in jail for a period of 25 days, this Court is of the opinion that it would be in the interest of justice to reduce the sentence to the period already undergone by him. However, the sentence of fine imposed by the Court below is enhanced to Rs. 10,000/- from that of Rs. 2,000/-. Let the entire fine amount be deposited by the accused/applicant in the trial Court within a period of three months from today by adjusting the amount of fine already deposited, if any.

10. With the aforesaid observations and modifications in the judgment impugned, the revision stands allowed in part.

Sd/-

(Vimla Singh Kapoor)
JUDGE

Jyotishi/santosh