

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 167 of 2013**

Kuber Sahu aged about 24 years, S/o Bhukhan Lal Sahu, Occupation Agriculturist, R/o village Gadhsivni, Police Station Tumgaon, District Mahasamund (C.G.).

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station Tumgaon, District Mahasamund (C.G.)

---- Respondent

For Applicant	:	Mr. Vikash Pradhan, Advocate
For Respondent	:	Ms. Smita Ghai, PL

Hon'ble Shri Justice Arvind Singh Chandel
Order on Board

16/11/2018

1. This revision has been preferred against the judgment dated 04/03/2013 passed in Criminal Appeal No. 124/2011 by the Second Additional Sessions Judge, Mahasamund arising out of judgment dated 19/09/2011 passed in Criminal Case No. 90/2011 by the Judicial Magistrate First Class, Mahasamund convicting the accused/Applicant under Sections 279 and 337 and 304-A of the IPC and sentenced him to pay fine of Rs. 300/-, fine of Rs. 1800/- (300X6) (regarding Vimlesh, Rohini, Sevanlal, Akash, Champeshwari and Khleshwari) and RI for 1 year with fine of Rs. 400/-, respectively with default stipulation.
2. As per prosecution story, on 22/01/2011 Complainant Ghanaram (PW2) lodged a report alleging therein that his daughter Pooja Sahu and her friends were taking bath in boring situated near his house. At

that time, the applicant, by driving offending unregistered tractor in a rash and negligent manner, dashed them, due to which Pooja died and other sustained grievous injuries. On the basis of the said report, offence has been registered. After investigation, a charge-sheet has been filed before the Judicial Magistrate First Class. To prove the guilt of the Applicant, total 12 witnesses have been examined. After trial, the trial Court has convicted and sentenced the Applicant as mentioned in the first paragraph of this order, which was also affirmed by the Appellate Court. Hence, this revision.

3. Learned Counsel appearing for 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 2011 and the Applicant is facing the *lis* since 7 years. Out of total jail sentence of 1 year, the Applicant has undergone about 7 days during trial, he is young boy and there is no known criminal antecedent against him, therefore, he prays that the jail sentence awarded to the Applicant 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 1 year, the Applicant has undergone about 7 days and he is facing the *lis* since 2011, I am of the

view 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 and the fine imposed upon the applicant under Section 304-A of IPC is enhanced to Rs. 1,00,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within 1 month from the date of receipt of a copy of this order. In default of payment, the Applicant shall be liable to undergo RI for 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

7. It is directed that the entire fine amount shall be given to the legal heirs of Deceased Pooja as compensation.
8. Consequently, the revision is partly allowed to the extent indicated above.
9. It is reported that the Applicant/accused 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