

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 977 of 2018**

Rajkishan Kanwar S/o Chandra Shekhar Kanwar, aged about 23 years, R/o Rumgara, Purani Basti, Korba, Tahsil & District- Korba (C.G.).

--- Applicant**Versus**

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

---- Respondent

For Applicant	:	Mr. Vimlesh Bajpai, Advocate
For Respondent	:	Mr. Sangarh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**11/10/2018**

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 10/05/2018 passed by the Sessions Judge, Korba (C.G.) in Criminal Appeal No. 56/2017, arising out of judgment of conviction and sentence dated 27/11/2017 passed in Criminal case No. 398/2014 by the Judicial magistrate First Class, Korba, convicting the applicant under Section 304-A of the Indian Penal Code and sentenced him to undergo SI for 6 months.
2. As per prosecution story, on 09/05/2010 at about 09:30 am, deceased boy- Amit Sharma was playing near the house of one- Savitri, near Durga Mandir. It is alleged that applicant/accused, through his tractor bearing no. CG12/8726, by rash and negligent driving, dashed the deceased boy who sustained injuries on his body. He was taken to hospital where he was declared as 'brought dead'. Report was made by Satya Narayan Sharma.

On the basis of the said report, offence has been registered. After investigation, a charge-sheet under Section 304-A of the IPC has been submitted before the Judicial Magistrate First Class. Charges were framed. 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 on behalf of the applicant submits that he does not want to press this revision on merit of the case and confines his argument to the sentence part only. He further submits that out of total jail sentence of 6 months, the applicant has undergone about 5 months. The incident is of the year 2010. The applicant is facing the *lis* since 8 years and he has no known criminal antecedent. Therefore, the jail sentence awarded to the applicant may be reduced to the period already undergone by him.
4. Learned Counsel appearing for the State opposes the prayer made by the counsel for the applicant.
5. I have heard Learned Counsel appearing for the parties and perused the material available on record.
6. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 6 months, the applicant has undergone about 5 months, he is facing the *lis* since 8 years and he has no known criminal antecedent, 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.

7. Consequently, the revision is partly allowed. The conviction of the applicant under Sections 304-A of the IPC is upheld and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
8. 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

Rahul