

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 26 of 2009

Ajay Kumar S/o Naresh Kumar Kaushik, aged about 22 years R/o
Janjgir P.S. Janjgir District Janjgir Champa, CG.

---- Applicant

Versus

- State of Chhattisgarh through : District Magistrate Janjgir District
Janjgir Champa, CG.

---- Respondent

For Applicant : Shri Sanjeev Verma, Advocate

For State/Respondent : Smt. M. Asha, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

07 /01/2019

The accused/applicant has preferred this revision petition against the judgment of conviction and order of sentence dated 12.01.2009 passed by Sessions Judge, Janjgir District Janjgir Champa in Criminal Appeal No. 62/2008 affirming the judgment dated 04.08.2008 passed by Chief Judicial Magistrate Janjgir in Criminal Case No. 662/03 convicting the accused/applicant u/s 279 and 338 IPC and sentencing him to undergo RI for three months under Sections 279 and 338 IPC plus fine of Rs. 500/- respectively.

2. Facts of the case, in brief, are that on 04.05.2003 when complainant Bhoj Bai (PW-2) along-with her husband and other family members was going to Janjgir in a jeep bearing registration No. CG/11/6102, its driver (the applicant herein), driving the same in a rash negligent manner hit a bullock cart parked by the side of road, as a result of which the complainant suffered grievous injury on her thigh. After report (Ex. P-1) being

lodged, the investigation proceeded and charge-sheet was filed against the accused/applicant under Section 279, 337 and 338 IPC.

3. On being satisfied with the averments of the parties and evidence on record the trial Court convicted and sentenced the accused/applicant as mentioned above. The findings recorded by the trial Court have been affirmed by the lower appellate Court by the Judgment impugned, and it is that which is under challenge in this revision.

4. Learned counsel for the accused/applicant submits that he is not pressing this revision on merits and would confine his argument to the sentence part of the judgment impugned therein. According to him, as the incident had taken place in the year 2003, and that he has already remained in jail for a period of 06 days, no useful purpose would be served in again sending him to jail, and therefore, the sentence imposed upon him may be reduced to the period already undergone by him.

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

6. Heard counsel for the parties and perused the material on records.

7. Though counsel for the accused/applicant is not inclined to press conviction of the accused/applicant, this Court thinks it appropriate to refer to the evidence of the witnesses to ascertain his guilt or innocence and therefore, it proceeds to do so.

8. Having seen the evidence of the witnesses in particular that of the complainant/injured PW-2 and her husband PW-1 it is

apparent that the jeep driven by the applicant in a rash negligent manner had hit the bullock cart parked by the road where PW-2 suffered injuries on her right thigh. Even the doctor namely Vinod Paliwal has supported the version of the complainant. As regards injury, he has stated that he noticed fracture on the right thigh of PW-2 as is clear from X-ray report Ex. P-4.

9. Thus, in view of the factual discussion made above in the light of the evidence of the witnesses, this Court is of the opinion that both the Courts below have been quite justified in holding the accused/applicant guilty under Section 279 and 338 IPC and being so, the same is hereby maintained.

10. As regards sentence, keeping in view the fact that the incident had taken place about 16 years back, that the applicant has already remained in jail for a period of 06 days and that by now the applicant must be living a peaceful life, 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. Order accordingly.

11. Resultantly, the revision petition is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-

(Vimla Singh Kapoor)

Judge