

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 643 of 2007

Deepak S/o. Tilak Ram Pandey, Aged about 25 years, R/o.
Seepat Nawadeeh, P.S. Seepat, District Janjgir Champa (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through the District Magistrate District
Janjgir Champa (C.G.)

---- Respondent

For Applicant : Mr. Abhijit Sarkar, Advocate.

For Respondent : Mr. Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

25.03.2019

This revision is directed against the judgment dated 27.11.2007 passed by the Sessions Judge Janjgir Champa (C.G.), in Criminal Appeal No. 28 of 2007, affirming the judgment of conviction and order of sentence dated 13.09.2007 passed by the Judicial Magistrate, First Class, Janjgir in Criminal Case No. 192/2007, convicting the accused/applicant under Section 304-A IPC and sentencing him to undergo RI for one year and to pay fine of Rs. 300/- plus default stipulation.

2. Facts of the case, in short, are that on 08.09.2006 at about 5.00 PM, the complainant was waiting for bus at the bus stop Charpara and his son Akash was playing outside of the waiting hall. At that time, the driver of the bus bearing registration No. CG 10 ZA 0974 came there in a rash and negligent manner and hit the Akash from the back side of the bus. The incident was informed to the complainant and Akash was taken to hospital for treatment where Akash was died. After registration of offence vide FIR (Exp12) and completion of investigation the charge sheet was filed against the accused/applicant.

3. Learned Magistrate having perused the material before it convicted the accused/applicant under Section 304-A IPC. In appeal the sentences of the above mentioned conviction has been affirmed. Hence, this revision.

4. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

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

6. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. From the statement of the (PW-1),(PW-2),(PW-3),(PW-4) it is proved that the applicant while driving the bus bearing registration No. CG 10 ZA 0974 in a rash and negligent manner and hit the deceased Akash from the back side of the bus. It is also established from the statements of those witnesses that on account of the rash and negligent act of the accused/applicant, deceased died on the hospital. It is true that the applicant was the first offender and he acted in a negligent manner. It appears that the applicant does not challenge his conviction directed against him. Also the concurrent finding given by both the Courts below for the conviction which depends upon the facts cannot be interfered without any substantial reason, and therefore there is no need to make any interference in the conviction directed by both the Courts below. It is hereby maintained.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 2006, that the accused/applicant has already remained in jail for a period of about 1 month 17 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. In lieu of this, the applicant however, would

be required to pay an enhanced sum of fine of Rs. 3000/- from that of Rs. 300/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of two months from today. Order accordingly.

9. With the above, the revision stands allowed in part.

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh