

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 753 of 2008

Shiv Kumar S/o Jham Singh Sahu, aged about 30 years,
residence of Village Kasahibahara, Police Station Mahasamund,
District Mahasamund, CG.

---- Applicant

Versus

- State of Chhattisgarh through the District Magistrate Mahasamund,
CG.

---- Respondent

For Applicant : Smt. Indira Tripathi, Advocate

For State/Respondent : Shri Himanshu Sharma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

02/04/2019

The facts of the case, in brief, are that on 20.03.2003 at about 6.30 pm when deceased Ghanshyam had gone to the betel kiosk of the accused/applicant and was standing there by holding its rod, in which electric current was flowing, he received shock and died instantaneously as a result thereof. *Merg* intimation report Ex. P-6 was given by PW-4 Shyamnarayan Sahu on the basis of which FIR was registered against the accused/applicant under Section 304-A IPC.

2. The trial Court vide judgment impugned dated 28.06.2008 found the accused/applicant guilty under Section 304-A IPC and sentenced him to undergo RI for six months and pay fine of Rs. 500/- plus default stipulation. The findings recorded by the learned Magistrate has been approved by the lower appellate Court vide judgment impugned dated 20.11.2008 passed in criminal appeal No. 80/2008. Hence this revision.

3. Counsel for the accused/applicant submits that both the courts below have held the accused/applicant guilty under Section 304-A IPC without properly appreciating the evidence of the witnesses. According to

him, the judgment impugned being contrary to the evidence on record is liable to be set aside. State counsel however supports the judgment impugned in letter and spirit.

4. Though PW-2 has stated that he was informed by one Prahalad that the deceased died on account of coming into contact with a rod in which electric current was flowing. According to him, the said rod was used in the betel shop of the accused/applicant and that when he went to the spot he saw the deceased lying there dead. He has further stated that on being tested with the help of tester, the betel kiosk of the accused/applicant was found to be in the grip of electric current. PW-6 has also stated that death of the deceased took-place on account of the electric shock when he was holding the rod of the betel shop of the accused/applicant. PW-7 is the witness of seizure of electric wire made under Ex. P-5 and he too has supported case of the prosecution. PW-8, PW-9 and PW-10 have also stated the same thing and thus supported case of the prosecution. PW-1 - the doctor who conducted postmortem examination on the body of the deceased has stated that he noticed electric shock injuries on his left palm and right thumb. He has given his report Ex. P-1 stating that the cause of death of the deceased respiratory failure on account of neurogenice shock by coming into contact of electric current.

5. Thus the over all evidence goes to show that the death of the deceased took-place on account of his coming into contact with the rod of the betel shop of the accused/applicant in which electric current was flowing. His negligence is clearly proved which ultimately led to the death of the deceased by receiving the electric shock flowing in the rod fitted in his betel shop. The court below has been thus fully justified in holding the accused/applicant guilty u/s 304-A IPC and being so his

conviction under the said section is fully justified, which is hereby maintained.

6. As regards sentence, keeping in mind the fact that the incident is quite old and the accused/applicant has already remained in jail for 05 days, this Court is of the opinion that interest of justice would be met if the sentence imposed on him is reduced to the period already undergone by enhancing the fine amount. Order accordingly. The fine imposed by the Court below is enhanced to Rs. 3,000/- to be deposited in the trial Court within the period of four months from today. Failure in making such deposit will not make this order available to the applicant.

7. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan