

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 324 of 2010

Mochan Kumar, S/o Ramkumar, aged about 42 years, R/o Akola, P.S. Kumhari, District – Durg, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh, Through the Station House Officer, Urla, District – Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Ram Sajiwan, Adv.
For Respondent/State	:	Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

09.08.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 09.07.2010 passed by the learned Tenth Additional Sessions Judge, Raipur, C.G. in Cr. Appeal No.09/2009 whereby the learned appellate Court below has confirmed the conviction and sentence of the applicant as awarded by the learned Judicial Magistrate First Class, Raipur, vide its judgment dated 03.02.2010 in Cr. Case No. 733/2010 for the offence under Section 304(A) of the IPC and sentenced him to undergo RI for six months and to pay fine of Rs. 500/-, with default stipulation.

2. Brief facts of the case are that on 21.03.2001, contractor Mahendra Pratap received information that one of his labour namely Abhay Singh met with an accident near Guma Nala. On receiving the said information, Mahendra Pratap reached at the spot, but he did not

found the deceased, so, he left to police station-Urla. On his way to police station, he found one tractor bearing registration number 24 F 1651 and Trolley No.1652, on being inquired he came to know that the present applicant who was driving the tractor trolley in rash and negligent manner, dashed the deceased, due to which he sustained grievous injuries and he died. Thereafter, a report was lodged in the police station by the complainant Mahendra Pratap against the applicant. After completion of investigation, charge-sheet was filed and charges were framed against the accused/applicant under Sections 279,337 and 304(A) of the IPC by the trial Court.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 07 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide judgment of conviction and order of sentence dated 03.02.2010, learned Judicial Magistrate First Class has convicted the accused/applicant under Section 304(A) of the IPC and sentenced him to undergo RI for six months and to pay fine of Rs.500/-, with default stipulation. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing this revision as far as it relates to the conviction part of the judgment and

would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2001 and thereby about 18 years have rolled by since then, he is aged about 50 years, the applicant has already remained in jail for about 10 days and no useful purpose would be served in again sending him to jail. Therefore, it would be appropriate in the interest of justice if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses including Surendra(PW-1), Mahendra Pratap(PW-2), Moolchand(PW-3), Ramnath(PW-4), Suresh Sharma(PW-5), Dr. Ullhas Gonnade(PW-6) and Santosh Tiwari (PW-7) establishes the involvement of the accused/applicant in the crime in question. This Court does not see any illegality in the findings recorded by both the Court below as regards conviction of the applicant under Section 304(A) of the IPC. Being so, it is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2001 and further that the applicant has already remained in jail for about 10 days, no useful purpose would be served in again sending him to jail at this stage and the ends of justice would be served if he is sentenced to the period already undergone by him with a direction to pay additional fine of Rs.5000/-.

10. In view of the above, the revision is partly allowed. While maintaining the conviction of the applicant, his jail sentence is reduced to the period already undergone by him. However, he is directed to pay

an additional fine of Rs.5,000/- within six months from today, failing which he shall have to undergo RI for two months. The fine amount of (Rs.5000/-) so deposited by the applicant before the trial Court be paid to the legal heirs of the deceased Abhay Singh, after due verification by the trial Court. The applicant is reported to be on bail. His bail bonds stand discharged.

yasmin

Sd/-
(Rajani Dubey)
Judge