

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 466 of 2010**

- Naseeruddin S/o Salim, aged about 59 years, Occupation-Driver R/o Aurangabad Mohalla, Pathan Toli, Bihar, Presently R/o Nawapara, Chhaal, District-Raigarh, C.G.

---- Applicant**Versus**

- State Of Chhattisgarh, Through District Magistrate, Raigarh, C.G.

---- Respondent

For Applicant	:	Ratan Pusty, Adv.
For Respondent/State	:	Mr. Akhtar Hussain, PL.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****22.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 30.08.2010 passed by the learned 3rd Additional Sessions Judge(FTC), Raigarh, C.G. in Criminal Appeal No. 46/2007 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Chief Judicial Magistrate, Raigarh, vide its judgment dated 07.12.2007 in Criminal Case No. 1333/2004 for the offence under Section 304-A of IPC and sentenced him to undergo R.I. for one year with fine of Rs. 10,000/-, plus default stipulation.
2. Brief facts of the case are that on 25.08.2004 at about 9.30 am. the complainant Shatrughan had gone along with his daughter Ramola Sahu to get his rice to the Mill of Lekhram Agrawal which was situated across the road. When they were returning from there, after crossing the road, his daughter Ramola, who was ahead of him, met with an accident by a truck bearing registration No. MP/26/D/1096 rashly and negligently, and consequently she died on the spot. A report was lodged against the applicant/accused. After completion of investigation, charge sheet was filed

and charge was framed by the trial Court against accused/applicant under Sections 304-A of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 7 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 impugned judgment of conviction and order of sentence dated 07.12.2007, learned Chief Judicial Magistrate has convicted and sentenced the accused/applicant for the offence under Section 304-A of IPC and sentenced him to undergo R.I. for 1 year and to pay fine of Rs. 10,000/- 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. Counsel for the applicant submits that he is not pressing the revision so 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 2004, and thereby more than 15 years have rolled by since then. The applicant is aged about 75 years, has already remained in jail for about two months and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him. He has placed reliance on the judgment dated 31.10.2001 passed by Himachal Pradesh High Court in Criminal Appeal No. 56/1998 (2002 CRI.L.J. 735, Himachal Pradesh Vs. Varinder Singh).
6. Learned counsel for the State has no objection to this preposition.
7. Heard learned counsel for the parties and perused the material on record including the impugned judgment.
8. Having gone through the material on record and the evidence of the witnesses Shatrughan (PW-1), Dr. Lokesh (PW-2), Lekh Ram Agrawal (PW-3), Hariram (PW-4), Bhagwat Prasad (PW-6), and B. R. Jangde (PW-7), which establishes the involvement of the accused/applicant in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of

the applicant under Section 304-A of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2004, and further that the applicant has already remained in jail for about two months, therefore, his sentence is liable to be reduced to the period already undergone by him.
10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant, he is sentenced to the period already undergone by him. The applicant is on bail. His bail bond will stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**