

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 383 of 2010**

- Banti @ Anil Yadav S/o Rmlal Yadav aged about 25 years, R/o Chotti Koni, Near Petrol Pump, Thana- Koni, Bilaspur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : Police Station-Seepat District-Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. K. K. Dewangan, Advocate.
For Respondent/State	:	Mr. Anil Tripathi, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****26.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 30.07.2010 passed by the learned 5th Additional Sessions Judge, Bilaspur, in Cr. Appeal No. 53/2010 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Bilaspur, vide its judgment dated 25.05.2010 in Criminal Case No. 399/2005 for the offence punishable under Section 304 (A) of IPC and sentenced him to undergo R.I. for one year with fine of Rs. 1,000/-, plus default stipulation.

2. Brief facts of the case are that on 28.03.2003, Fekuram lodged a report that applicant was driving a Tanker bearing registration No. CG-12-ZC-0625 and by driving rashly and negligently he entered the truck in a shop situated beside the road due to this, vehicle was overturned and Ramnath who was sleeping there was died on the spot. After completion of investigation, charge sheet was filed and charges were framed 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 10 witnesses. Statement of the accused/applicant was

also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing 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 25.05.2010, learned Judicial Magistrate has convicted and sentenced the accused/applicant for the offence punishable under Section 304 (A) of IPC and sentenced him to undergo R.I. for one year and to pay fine of Rs. 1,000/-, with default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the appellant. Hence, the present revision.

5. Learned 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. He further submits that, the incident is said to have taken place in the year 2003, and thereby more than 16 years have rolled by since then. The applicant has already remained in jail for more than 7 days, 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.

6. Learned counsel for the State has no objection to this proposition.

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 Fekuram (PW-1), Rameshwar (PW-2), Pramod (PW-3), Prahalad Yadav (PW-4), Mantosh (PW-5), Sarju Prasad (PW-6), Amar Singh (PW-7), A.K.S. Chandel (PW-8), Dr. Rajesh Kumar (PW-9) and Harimangal Singh (PW-10), established 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 Courts below as regards conviction of the applicant under Section 304 (A) of IPC being so it is hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2003, and further that the appellant had already remained in jail for more than 7 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. 5,000/-.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him. However, he is directed to pay an additional fine of Rs. 5,000/- within eight months from today, failing which he shall have to undergo RI for two months. The fine amount of (Rs. 5,000/-) so deposited by the applicant before the trial Court be paid to the legal heirs of the deceased, after due verification by the trial Court. The applicant is on bail. His bail bond shall stand discharged.

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