

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 451 of 2004

Munish Vishwakarma S/o Mangali Prasad, aged 21 years, Occupation Driver, R/o Village Kalinagar, P.S. Madhotanda, District Shahjahanpur (U.P) at present resident of house of Balbir Singh, Tatibandh, P.S. Amanaka, Raipur, District Raipur, CG.

---- Applicant

Versus

State of Chhattisgarh through District Magistrate Raigarh, District Raigarh, CG.

--- Respondent

For Applicant	: Shri Dashrath Prajapati, Advocate with Shri Ishwari Ghrilahre, Advocate
For State/Respondent	: Smt. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

15/01/2019

On 29.05.2002 FIR (Ex. P-2) was lodged by Krishna Kumar Sidar (PW-1) stating that when his uncle Ganesh Ram was riding the bicycle, the truck bearing registration No. CG04-ZC-0126 driven by the applicant in a rash and negligent manner came there and hit him as a result of which he came under the wheel leading to his head being crushed to death. After completion of investigation, charge-sheet was filed against the applicant under Section 304-A IPC and charge framed accordingly.

2. By judgment dated 26.08.2004 learned trial Court convicted and sentenced the accused/applicant u/s 304-A IPC and imposed the sentence of RI for one year with fine of Rs. 1,000/-, plus default stipulation. In appeal also, the conviction and sentence recorded by the trial Court have been affirmed. Hence this revision.

3. Counsel for the accused/applicant pleads no instruction. This Court however proceeds to decide the case on its own. State counsel however, supports the judgment impugned.

4. From the evidence of Krishna Kumar Sidar (PW-1) who at the relevant time was riding a separate bicycle parallel to the deceased has

stated that on the fateful day when the deceased reached near a culvert, the accused/applicant came there driving the offending truck in a rash and negligent manner and hit the bicycle being ridden by the deceased as a result of which he came under the rear wheel of the truck and met with instantaneous death on account of head being crushed. In this view of the matter, the conviction of the applicant u/s 304-A IPC does not appear to be off the record and therefore it is maintained.

5. However, looking to the fact that incident had taken place in the year 2002 and thereby more than 16 years have passed-by, and further that the accused/applicant has already remained inside for 15 days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone so that his already settled family life is not landed in crises. Order accordingly.

6. Revision allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan