

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 83 of 2004

Amarjeet Prasad Verma S/o Madan Lal Verma, aged about 41 years R/o Village Agharyapara P.S. Lailunga, District Raigarh, CG.

---- Applicant

Versus

State of Chhattisgarh through District Magistrate Raigarh, CG.

---- Respondent

For Applicant : Shri Sandeep Yadav, Advocate

For State/Respondent : Shri Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

11/02/2019

On 13.09.2000 when Anand Ram Rathiya had gone to market at Gharghoda, the truck bearing Registration No. MP-26-D/0858 driven by the accused/applicant in a rash and negligent manner dashed him causing his death on the spot. On *Dehati Nalsi* (Ex.P-2) being made, an offence under Section 304-A IPC was registered against the accused/applicant. After completion of investigation *challan* was filed by the Police under the said section followed by further prosecution of the applicant resulting in his conviction as mentioned above.

2. Learned trial Court went through the material on record and found the accused/applicant guilty under Section 304-A IPC and sentenced him to RI for 6 months with fine of Rs.500/- vide order dated 26.02.2003 passed in Criminal Case No.470/2000. Lower Appellate Court also maintained the findings of learned Magistrate vide order impugned dated 03.02.2004. Hence this revision.

3. At the very outset, counsel for the applicant submits that he is not pressing the conviction of the applicant but his sole request would

be for reduction of the sentence to the period already undergone keeping in mind the matter being quite old and that the applicant has already remained inside for 9 days. State counsel however supports the judgment impugned in letter and spirit.

4. Important witness namely Bhuwan Das (PW-5) has stated that on the date of incident when the deceased was going on a bicycle, the offending vehicle came from the opposite direction being driven by the accused/applicant in a rash and negligent manner and hit him as a result of which he died on the spot. Santosh Kumar (PW-2) has also identified the bicycle ridden by the deceased in which his name was scribbled. He also saw the offending vehicle standing nearby. Damodar Prasad Choudhary (PW-3) – a hearsay witness has also stated that people present on the spot told him that the accident was caused by a truck. Mohammad Ashiq (PW-12) who examined the offending vehicle has also stated that there was no mechanical fault in the vehicle and its brake and engine were found to be in order. Thus it is manifest that the accident involving the death of the deceased in the present case was the outcome of the rash and negligent act of the accused/applicant and being so, both the Courts below do not appear to have committed any error in convicting the accused/applicant under Section 304-A IPC. Conviction is thus maintained.

5. As regards sentence, keeping in mind various factors existing for the present such as the case is quite old, that he has already remained inside for 9 days and by now he must be reeling under the pressure of family responsibilities, interest of justice tilts in his favour. Accordingly this Court does not see any reason to again send him to jail and thereby disturb his well settled family life. Being so, the jail sentence imposed on him is reduced to the period already undergone

by the accused/applicant. However, in lieu thereof the fine of Rs.500/- as imposed by the courts below is enhanced to Rs.3,000/- to be deposited by him in the trial Court within a period of three months from the date of receipt of copy of this order. This order will lose its efficacy if the accused/applicant fails to make such deposit within the time mentioned above.

6. With the above observations and modifications in the order impugned, the revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/ajay