

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 38 of 2010

Amarlal Yadav, S/o Urgasen Yadav, aged about 25 years, R/o Village – Podaguda, Police Station - Deobhog, District – Raipur, C.G.

---- Applicant

Versus

State of Chhattisgarh, Through the District Magistrate, District – Raipur, C.G.

---- Respondent

For Applicant	:	Smt. Mandavi Bharadwaj, Adv.
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

26.04.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 15.01.2010 passed by the learned Additional Sessions Judge, Gariyabandh, District – Raipur, C.G. in Cr. Appeal No.66/2009, whereby the learned appellate Court below has confirmed the conviction and sentence of the applicant as awarded by the learned Judicial Magistrate First Class, Deobhog District – Raipur, vide its judgment dated 15.09.2009 in Cr. Case No. 64/2008 for the offence under Section 279 of the IPC, under Section 304(A) of the IPC and sentenced him to undergo RI for one year and to pay fine of Rs. 200/-(two times), under Section 338 of the IPC and sentenced him to undergo RI for six months and to pay fine of Rs.100 (two times) and under Section 337 of the IPC and sentenced him to undergo RI for three months and to pay fine of Rs.100/-, with default

stipulations.

2. Brief facts of the case are that on 03.03.2008 at about 11.00 a.m., the deceased namely Tarebai, Jai Singh and other person had gone to Gadaghat by the Tractor trolley bearing registration No.CG 04 D 8333. When they are returning after loading the sands, the tractor was unbalanced and turned turtle. The appellant was driving the vehicle in rash and negligent manner and turned turtle due to which the deceased Tarebai and Jaisingh were died and other person namely Shanti Bai, Lakhan Yadav and Kuntibai sustained injuries. Thereafter, a report was lodged in the police station by Harinath Yadav(PW-1). After completion of investigation, charge-sheet was filed and charges were framed against the accused/applicant under Section 279, 337, 338 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 08 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 15.09.2009, learned Judicial Magistrate First Class has convicted the accused/applicant under Section 279 of the IPC, under Section 304(A) of the IPC and sentenced him to undergo RI for one year and to pay fine of Rs.200/-(two times) under Section 338 of the IPC and sentenced him to undergo RI for 6 months and to pay fine of Rs.100/-(two times) and under Section 337 of the IPC and sentenced him to undergo RI for 3 months and to pay fine of Rs.100/-, with default stipulations. 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 2008 and thereby about 11 years have rolled by since then, he is aged about 40 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 Harinath (PW-1), Moharlal (PW-2), Kuntibai (PW-3), Shanti (PW-4), Lakhan(PW-5), Dr. Anju Sonwani(PW-6), Bhaskar(PW-7) and F.R. Bhoi(PW-8) 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 Court below as regards conviction of the applicant under Sections 279, 337, 338 and 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 2008 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.10,000/- within six months from today, failing which he shall have to undergo RI for two months. The fine amount so deposited by the applicant before the Trial Court be paid as Rs.5000/- to the legal heirs of the deceased Tarebai and Rs. 5000/- to the legal heirs of the deceased Jai Singh, after due verification by the trial Court. The applicant is reported to be on bail. His bail bond shall stand discharge.

yasmin

Sd/-
(Rajani Dubey)
Judge