

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 313 of 2004**

- Samaru Ram S/o Sobharam Gond Aged About 28 Years, R/o Santoshi Nagar, Raipur, District-Raipur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : District Magistrate Dhamtari, District-Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. N. K. Chatterjee, Advocate.
For Respondent/State	:	Mr. Sameer Sharma, Dy. G.A.

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 07.06.2004 passed by the learned Additional Sessions Judge, Dhamtari, in Cr. Appeal No. 216/2002 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Chief Judicial Magistrate Dhamtari, vide its judgment dated 24.05.2002 in Criminal Case No. 915/1999 for the offence punishable under Section 304 (A) of IPC and sentenced him to undergo R.I. for two years with fine of Rs. 4,000/-, plus default stipulation.

2. Brief facts of the case are that on 13.08.1999 applicant driving the Truck bearing registration No. M.P.R.-7857, when he passed from Umarda to Magarload due to his rash and negligent driving the accident took place and his truck dashed the cyclist Tejram Sahu and his father Brijlal Sahu. Due to this, accident they died on the spot, a report was lodged against the applicant. 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 9 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 24.05.2002, learned Chief 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 two year and to pay fine of Rs. 4,000/-, plus 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 1999, and thereby more than 20 years have rolled by since then, applicant is aged about 50 years old and has already remained in jail for more than 11 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 Laxmi Bai (PW-1), Ramadhar Sahu (PW-2), Rijanlal Dewangan (PW-3), Chaiman Lal (PW-4), Dr. Vinod Kumar (PW-5), Surendra Kumar Sahu (PW-6), Virendra Kumar Verman (PW-7), Dooran Singh (PW-8) and Kamal Kumar (PW-9), 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 1999, and further that the appellant had already remained in jail for more than 11 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**