

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 318 of 2010

Ashish Manikar S/o. Uttam Manikar, Aged about 19 years, R/o. Tarbahar, FCI Road, House of Shiv Kumar Patel, Police Station Tyarbahar, Tahsil and District Bilaspur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through the Police Station Masturi, District Bilaspur (C.G.)

---- Respondent

For Applicant : Ms. Sareena Khan, Advocate.

For Respondent : Mr. I. Lakra, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

01.02.2019

This revision is directed against the judgment dated 08.07.2010 passed by the Sessions Judge Bilaspur, in Criminal Appeal No. 01 of 2010, modifying the judgment of conviction and order of sentence dated 27.11.2009 passed by the Judicial Magistrate, First Class, Bilaspur in Criminal Case No. 15/2008, convicting and sentencing the accused/applicant under Sections 3/181 and 146/196 of the Motor Vehicles Act and under Sections 337,337 304-A IPC sentencing him to pay fine of Rs. 1000/- to each u/s 3/181, 146/196 of the Motor Vehicle Act, to pay fine of Rs. 500/- to each u/s 337 IPC and to undergo simple

imprisonment for six months and to pay fine of Rs. 500/- u/s. 304-A IPC with default stipulation.

2. Facts of the case, in short, are that FIR (Ex.P-2) was lodged by the complainant (PW-1) in Police Station Masturi, wherein it is alleged that on the date of incident i.e. on 12.10.2007 the applicant was driving tanker bearing registration No. CG 10 Z B-1013 with rash and negligence manner and dashed the boundary wall and rammed into the school premises by braking the boundary, as a result of which Jakesh died on the spot, Arti and Anjani the other students were received injuries on their body and they were sent for medical treatment. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. Learned Magistrate having perused the material before it convicted the accused/applicant under Sections 3/181 and 146/196 of the Motor Vehicles Act and under Sections 337,337 304-A IPC. In appeal the sentences of the above mentioned conviction has been modified. Hence, this revision.

4. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. From the statement of the (PW-2) and (PW-3), it is unflinchingly proved that the applicant while driving the tanker bearing registration No. CG 10 Z B-1013 with rash and negligence manner and dashed the boundary wall and rammed into the school premises by braking the boundary, as a result of which Jakesh died on the spot. PW-4, PW-5, PW-6, PW-7 and Arti (PW-8) the eye-witness to the incident supported the case of the prosecution. It is also established from the statements of those witnesses that on account of the rash and negligent act of the accused/applicant Jakesh (deceased) died on the spot. Therefore, the findings of conviction recorded by both the Courts below appear to be fully justified. It is hereby maintained.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 2007, that the accused/applicant has already remained in jail for a period of 7 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone.

9. With the above, the revision stands allowed in part.

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh