

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 100 of 2010

- Ghanshyam @ Buji Yadav, S/o Tinopal Yadav, aged about 25 years, R/o Village – Deobhog, 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

05.04.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 09.02.2010 passed by the Learned Additional Sessions Judge, Gariyabandh, District – Raipur, C.G. in Cr. Appeal No. 61/2009 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 22.08.2009 in Cr. Case No. 188/2007 for the offence under Section 304 (A) of the IPC and sentenced him to undergo RI for 2 years and to pay fine of Rs. 100/-, with default stipulations.

2. Brief facts of the case are that on 30.06.2007, at about 8:45 p.m., deceased namely Smt. Jeevan Thakur and other person were going to sit on the Tractor Trolley for crossing the river, at that time, a

bus which was driven by the applicant, in rash and negligent manner, came and dashed Smt. Jeevan Thakur, due to which she died at the spot. After completion of investigation, charges were framed against the accused/applicant under Section 304 (A) of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 12 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 22.08.2009, learned Judicial Magistrate First Class has convicted the accused/applicant under Section 304 (A) of the IPC and sentenced him to undergo RI for two years and to pay fine of Rs. 100/- plus 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 2007 and thereby about 12 years have rolled by since then, he is aged about 37 years, the applicant has already remained in jail for about 12 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 preposition.
8. Having gone through the material on record and the evidence of the witnesses including , Ganesh Thakur (PW-1), Ravi Thakur (PW-2), Sudha Thakur (PW-5), Anand Singh Thakur (PW-9), Renu Thakur (PW-10) Dr. Anju Sonwani (PW-11) and Parasram Verma (PW-12), 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 Section 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 2007, and further that the applicant has already remained in jail for about 12 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 and is directed 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.5000/- 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 to the family member of the deceased after due verification by the trial Court. The applicant is reported to be on bail. His bail bond shall stand discharge.

Sd/-
(Rajani Dubey)
Judge