

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 144 of 2005**Bhagwanji Shah Aged About 32 years S/o Late shri Nori Shah R/o Bhilai,
District Durg (Chhattisgarh)**---- Applicant****Versus**

State of Chhattisgarh.

--- Respondent

For Applicant	: Shri Utkal Pradhan, Advocate
For State/Respondent	: Shri Vikram Dixit, G.A.

Hon'ble Smt. Justice Vimla Singh Kapoor**Order On Board****29/01/2019**

Facts leading to disposal of this revision, in brief, are that on 20.12.2000 the truck bearing registration No. MP 23-D-A-0346 carrying 60-70 people collided with another truck leading to the death of some and leaving many injured as a result thereof. All this happened when the offending vehicle was being driven by the accused/applicant in a rash and negligent manner in a bid to overtake the other truck passing by. After the matter being reported, offense registered and investigation completed, *challan* was laid under Sections 304-A and 337 IPC followed by framing of charge accordingly.

2. By judgment dated 12.03.2004 learned trial Court convicted the accused/applicant u/s 304-A and 337 IPC and imposed the sentence of RI for two years under Section 304-A for causing the death of Mohit Bai, Dikesh, Ramayan, Basanti Bai, Rajkumari, Bhupendra, Shatrughan, Kamin Bai and Rekha Sahu; and RI for three months under Section 337 IPC for endangering the life of many more. In appeal, the conviction and sentence recorded by the trial Court has been affirmed. Hence this revision.

3. Counsel for the accused/applicant does not assail the conviction part of the judgment impugned and his only request is that looking to the

incident being quite old and also considering the fact that he has remained under detention for 16 days, the jail sentence imposed on him may be reduced to the period already undergone and thereby his well settled family life may be protected from being up-rooted at this stage. State counsel however, supports the judgment impugned.

4. The evidence of the witnesses examined by the prosecution in particular PW-2, PW-3, PW-4, PW-6, PW-7 and PW-9 to PW-15 makes it clear that at the relevant time the accused applicant was driving the offending vehicle in a rash and negligent manner resulting in the death of many innocent people and crippling the life of many more. Some of the surviving victims have suffered even fracture and dislocation of the bones. Though the accused/applicant has taken the stand that the mishap occurred on account of mechanical fault in the vehicle, the evidence collected by the prosecution does not say so. Rather, the evidence shows that this tragic accident was the direct outcome of rash and negligent act of the accused/applicant in driving the vehicle. In this view of the matter, the conviction of the applicant 304-A and 337 IPC does not appear to be off the record and therefore it is maintained.

5. However, looking to the fact that incident had taken place in the year 2000 and thereby more than 18 years have passed-by, and further that the accused/applicant has already remained inside for 16 days this Court thinks it proper to reduce the sentence imposed on him to the period already undergone, so that his already settled family life is not landed in crises. Order accordingly.

6. Revision allowed in part with the observations made above.

Sd/-

(Vimla Singh Kapoor)

Judge