

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 682 of 2008**

- Yashwant Kumar Sahu S/o Shri Khemaram Sahu, R/o Village - Ghuchapali, P. S. - Bagbahara, Tahsil & District - Mahasamund, C.G.

---- Applicant**Versus**

- State Of Chhattisgarh, Through P. S. - Bagbahara, Tahsil & District - Mahasamund, C.G.

---- Respondent

For Appellant	:	Mr. Anand Gupta, From Legal Aid.
For Respondent/State	:	Mr. Anil Tripathi, PL.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****21.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 07.10.2008 passed by the learned Sessions Judge, Mahasamund, in Cr. Appeal No. 100/2008 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Mahasamund, vide its judgment dated 06.08.2008 in Criminal Case No. 572/2007 for the offence under Sections 337 and 304(A) of IPC and sentenced him to undergo R.I. for three months with fine of Rs. 500/- and R.I. for six months with fine of Rs. 1000/- respectively, plus default stipulation.

2. Brief facts of the case are that on 02.10.2006 at about 10.00 pm. when the deceased Gangaram was going from Village Litiyadaadar to Komakhan on his bicycle along with his brother-in-law, Devdas and Khorbahra was also going with them. Applicant driving his motorcycle bearing Registration No. C.G.-06-C-1874 in rash and negligent manner dashed Gangaram as a result of which he died on spot and Tekaru succumbed serious injuries. Thereafter, F.I.R. was lodged against applicant. After completion of investigation, charge sheet was filed and charges were framed against accused/applicant under Sections 279, 337 & 304 (a) of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 15 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 06.08.2008, learned Judicial Magistrate has convicted and sentenced the accused/applicant for the offence punishable under Sections 279, 337 & 304 (A) of IPC and sentenced him to undergo R.I. for three months and to pay fine of Rs. 500/- and R.I. for six months and to fine of Rs. 1000/- respectively, with default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the appellant. Hence, the present revision.

5. Learned counsel for the applicant submits that he is not pressing the revision so 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 2006, and thereby more than 13 years have rolled by since then. 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, 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 preposition.

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 Kartik Ram (PW-1), Dewadas (PW-2), Tikaarur Ram (PW-3), Khorbahra (PW-4), Durgesh (PW-6), Sukhlal (PW-8), Chandrashekhar (PW-10), Dr. N.N. Dhankar (PW-12), Dhanesh Tadekar (PW-13), and Khemraj (PW-14), established the involvement of the accused/applicant in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the appellant under Sections 279, 337 & 304 (A) of IPC being so they are hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2006, and further that the appellant had 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. 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 six 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**