

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 543 of 2003**

1. Jagdish Prasad Yadav S/o Deodhari Yadav, aged about 32 years, Occupation Doctor, R/o Village Chhichhali, Police Station Sanna, District Jashpur (C.G.).
2. Ramswarup Yadav S/o Jageshwar yadav, aged about 24 years Occupation Doctor R/o Village Khairapad, Police Station Bagicha, District Jashpur (C.G.)

---- Applicants**Versus**

State of Chhattisgarh Through District Magistrate, Distt. Jashpur (C.G.)

---- Respondent

For Applicants	:	Mr. Sanjay Agrawal, Advocate
For Respondent	:	Mr. K.K. Dewangan, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****24/06/2019**

1. This revision has been preferred against judgment dated 06/11/2003 passed in Criminal Appeal No. 02/2003 by the Sessions Judge, Jashpur (C.G.) arising out of judgment dated 27/01/2003 passed in Criminal Case No. 1129/1995 by the Chief Judicial Magistrate, Jashpur (C.G.), whereby the Applicants stand convicted under Section 304-A of the IPC and sentenced to undergo RI for 2 years and to pay fine of Rs. 5000/- with default stipulation.
2. As per prosecution story, Prem Kumar (PW3) had lodged a report (Ex.P-3) on 03/09/1995 alleging therein that his father died on 03/09/1995 at Govt. Hospital. It was alleged by him that prior to death

of his father, the Deceased had gone to market. Due to some headache, the Deceased went to Applicant No. 1, who administered some medicine and an injection. The Deceased felt some pain and got swelling in that part of body where the injection had been injected. It was further alleged that thereafter Applicant No. 1 was called who again administered some medicine and injection to the Deceased, but there was no improvement. Thereafter, the Deceased was taken to Applicant No. 2, who also administered some medicine and an injection, there was no improvement in the health. Finally, he admitted the Deceased on 26/08/1995, where Dr. Toppo treated him. On 03/09/1995, during course of treatment, the Deceased died. The matter was informed by Dr. Toppo to the police station. On the basis of said background, offence has been registered. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After investigation, a charge-sheet was filed and charges were framed.

3. After trial, the learned trial Court has convicted and sentenced the Applicant as mentioned in paragraph one of this order, which was also affirmed by the Appellate Court. Hence, this revision.
4. Learned Counsel appearing for the Applicants submit that he does not want to press this revision on merits and confines his argument to the sentence part only. It is further submitted that out of total jail sentence of 2 years, the Applicants have already undergone about 1 month, they are facing the *lis* since 1995, there is no criminal antecedent against the Applicants, therefore, he prays that the jail sentence awarded to the Applicants may be reduced to the period already undergone by

them

5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 2 years, the Applicants have undergone about 1 month, they are facing the */is* since 1995 and there is no criminal antecedent against them, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Applicants, the jail sentenced awarded to them is reduced to the period already undergone by them and the fine sentence imposed upon under Section 304-A of the IPC is enhanced to Rs. 15,000/- against each of the Applicants. Ordered accordingly. The enhanced amount of fine shall be payable within 1 month from the date of receipt of a copy of this order. In default of payment, the Applicants shall be liable to undergo RI for 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
8. Consequently, the revision is partly allowed to the extent indicated above.
9. It is reported that the Applicants/accused are on bail. Their bail bonds are not discharged at this stage and the same shall remain operative

for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.

10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul