

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 322 of 2006

Laxmi Prasad Patel, S/o. Bhagwat Prasad Patel, Aged about 42 years, R/o. Village Kudurmaal, Thana Korba, Police Chowki Urga, Tahsil and District Korba (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Police Station Kartala, District Korba (C.G.)

---- Respondent

For Applicant : Mr. Sanjay Patel, Advocate.

For Respondent : Mr. Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

13.03.2019

This revision is directed against the judgment dated 08.05.2006 passed by the Sessions Judge Korba District Korba (C.G.), in Criminal Appeal No. 01 of 2006, affirming the judgment of conviction and order of sentence dated 16.12.2005 passed by the Judicial Magistrate, First Class, Korba in Criminal Case No. 325/2002, convicting the accused/applicant under Sections 279 and 304-A IPC and sentencing him to undergo RI for 6 months and to pay fine of Rs. 1000/- plus default stipulation.

2. Facts of the case, in short, are that on 14.03.1989 the applicant was the driver the truck bearing registration No. MPS 5779. On the date of incident, the applicant was transporting bricks from Urga to Rampur. After dumping of bricks, he was driving the vehicle with rash and negligent manner and due to sudden turning, the applicant lost his control over the truck and the truck entered into the field. Amrit Lal who was sitting on the front seat of the truck, he fell down from the truck and the wheel of the truck passed over from his leg, as a result of which his leg was fractured and other passengers were also received injuries. Amrit Lal was admitted in the hospital where he died. 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 279 and 304-A IPC. In appeal the sentences of the above mentioned conviction has been affirmed. 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-1), PW-3),(PW-4),(PW-5) it is proved that the applicant was driving the truck bearing registration No. MPS 5779 in a rash and negligent manner. Due to sudden turning, he lost his control over the truck and the wheel of the truck passed over from the leg of the deceased and he died and other passengers were also received injuries. It is also established from the statements of those witnesses that on account of the rash and negligent act of the accused/applicant, deceased died. It is true that the applicant was the first offender and he acted in a negligent manner. It appears that the applicant does not challenge his conviction directed against him. Also the concurrent finding given by both the Courts below for the conviction which depends upon the facts cannot be interfered without any substantial reason, and therefore there is no need to make any interference in the convicted directed by both the Courts below. It is hereby maintained.

8. However, looking to the fact that the incident had taken place in the year 1989 and thereby more than 30 years have

passed by, and further that the accused/applicant has already remained inside the jail about 28 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 to crises. In lieu of this, the applicant however, would be required to pay an enhanced sum of fine of Rs. 5000/- from that of Rs. 1000/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of two months from today. Order accordingly.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh