

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 565 of 2009

Tameshwar S/o. Omprakash Sahu, Aged about 26 years, R/o. Village Bhasera, Police Station Fingeshwar, Tahsil Rajim, District Raipur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Gobra Nayapara, District Raipur (C.G.)

---- Respondent

For Applicant : Mr. Ajay Kumar Chandra, Advocate.

For Respondent : Mr. Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

15.05.2019

This revision is directed against the judgment dated 10-11-2009 passed by the Additional Sessions Judge Gariyabandh, (C.G.), in Criminal Appeal No. 36 of 2009, affirming the judgment of conviction and order of sentence dated 11-02-2009 passed by the Judicial Magistrate, First Class, Rajim, in Criminal Case No. 767/2007, convicting the accused/applicant under Section 304-A IPC and sentencing him to undergo RI for six months and to pay fine of Rs. 2000/- plus default stipulation.

2. Facts of the case, in short, are that on 11.03.2007 at about 3.00 PM, Vidwan Banjare and Ganesh Banjare both were returning to their homes in their bicycles after selling the scraps items. When they reached near the Gulab Nagar, Dharamkanta, the applicant came there in his motorcycle with rash and negligent manner and dashed them by his motorcycle. complainants Vidwan Banjare and Ganesh Banjare sustained injuries from the said accident and Ganesh Banjare died in the hospital during the treatment. After registration of offence vide FIR (Ex.P.-7) 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 Section 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-4),(PW-6) and (PW-7) it is proved that the applicant while driving his motorcycle in a rash and negligent manner and hit him. The said witnesses were cross- examined at length and maintained that applicant -Tameshwar was driving the offending vehicle at a very high speed and in a rash & negligent manner, which resulted into accident. Thereafter, bike, involved in the accident, was taken into police custody on 11.03.2007. The mechanical examination of the offending vehicle was also got done. Apart from that, prosecution has been able to examine PW-11- Dr. Suryakant Tiwari, who had conducted the medical examination of deceased. It is also established from the statements of those witnesses that on account of the rash and negligent act of the accused/applicant, the deceased died during the treatment in the hospital and the concurrent finding given by both the Courts below for the conviction of the applicant which depends upon the facts cannot be interfered without any substantial reason, and therefore there is no need to make any interference in the conviction directed by both the Courts below. It is hereby maintained.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 2007, that the accused/applicant has already remained in jail for a period of about 16 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. In lieu of this, the applicant however, would be required to pay an enhanced sum of fine of Rs. 5000/- from that of Rs. 2000/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of four months from today. Order accordingly.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE