

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 317 of 2010

Jaimangal Pratap Singh S/o Dev Chand, aged about 30 years,
Caste Gond, R/o. Village Kadaura, P.S. Rajpur, District Surguja,
CG. **---- Applicant**

Versus

State of Chhattisgarh through Police Station Pratappur, District
Surguja, CG. **---- Respondent**

For Applicant : Shri D. N. Prajapati, Advocate

For State/Respondent : Shri Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

08/05/2019

FIR (Ex. P-1) goes to show that on 10.03.2003 when the deceased along with his sister Silochini was returning home from the examination center on his bicycle, the accused/applicant came there on a scooter riding the same in a rash and negligent manner and hit the bicycle paddled by the deceased. On account of being hit, the deceased and his sister fell down and suffered number of injuries including fracture on their bodies. After first-aid, looking to the injuries the deceased was referred to Ambikapur and from there to Raipur, but ultimately the injuries suffered by him proved fatal.

2. Learned trial Court vide judgment dated 28.01.2010 convicted the accused/applicant under Sections 337 and 304-A IPC and sentenced him to undergo RI for six months u/s 304-A IPC and pay fine of Rs. 500/- plus default stipulation u/s 337 IPC. In appeal also the findings recorded by the trial Court have been affirmed vide judgment impugned dated 07.07.2010 passed in criminal appeal No. 35/2010. Hence this revision.

3. Learned counsel for the accused/applicant submits that though the prosecution has not proved its case beyond reasonable doubt yet the Courts below have erroneously held the accused/applicant guilty under Section 304-

A and 337 IPC and, therefore, the same is liable to be set aside. State counsel however supports the judgment impugned.

4. Considering the over all evidence of the witnesses in particular that of PW-10 and PW-8 who saw the entire accident with their own eyes it is evident that the accident had taken place on account of rash and negligent act of the accused/applicant in riding the scooter. Medical evidence also established the fact that the injuries suffered by the deceased as also the surviving victim was the accidental fall from the bicycle after being hit by the scooter ridden by the accused/applicant. None of the witnesses has stated that there was any mechanical setback in the scooter ridden by the accused/applicant leading to the accident in question where one has lost his life and the other has suffered number of injuries on various parts of her body. PW-8 and PW-10 have categorically stated that the deceased was paddling the bicycle very moderately whereas the accused was plying his scooter at an excessive speed and thus he alone was responsible for the accident in question. No infirmity in conviction part of the judgment impugned is called for, and accordingly it is hereby maintained.

5. As regards sentence, keeping in mind the fact that the incident had taken place in the year 2003 and the accused/applicant has already remained in jail for about a week, this Court is of the opinion that the interest of justice would be met if the sentence imposed on him is reduced to the period already undergone by enhancing the fine sentence to Rs. 3,000/- from that of Rs. 500/- as was imposed by the Courts below. Let this enhanced fine amount be deposited in the trial Court within a period of four months from today or else this order would not be available to the accused/applicant. Order accordingly.

6. Revision thus partly allowed.

Sd/-

(Vimla Singh Kapoor)

Judge