

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 377 of 2008

- Gopiram, S/o Gopal Singh, aged about 36 years, R/o Village Suregaon, P.S. Devri, District – Durg, C.G.

---- Applicant

Versus

- State Of Chhattisgarh, Through District Magistrate, District – Durg, C.G.

---- Respondent

For Applicant	:	Shri Anand Gupta, Advocate from Legal Aid
For Respondent/State	:	Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

24.07.2019

1. The present revision arises out of the judgment of conviction and order of sentence dated 29.05.2008 passed by the Learned Additional Sessions Judge, Balod, District – Durg, in Cr. Appeal No. 10/2008, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant awarded by the learned Judicial Magistrate, First Class, Balod, vide its judgment dated 09.01.2008 in Cr. Case No. 787/2005 for the offence under Section 304-A of the IPC, and sentenced him to undergo RI for six months along with fine of Rs. 500/-with default stipulation.

2. Brief facts of the case are that on 29.11.2004, deceased Vasudev halba was returning from village Gahira Nawagaon in his bicycle, when he reached near Bhandara Bridge at main road, the applicant/accused who was driving the tractor bearing registration

number MP 24 F 1626 along with trolley number 1627, in rash and negligent manner came and dashed the deceased, due to which deceased Vasudev sustained grievous injuries in his body and when he was taken to the hospital, he died. Thereafter, the FIR was lodged against the applicant. After filing of charge-sheet, charges were framed against the accused/applicant under Section 304-A of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 11 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled 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 09.01.2008, learned Judicial Magistrate, First Class, has convicted the applicant under Section 304-A of the IPC, and sentenced him to undergo RI for six months along with fine of Rs.500/-, plus default stipulation. This order was appealed by the applicant and in the appeal, learned appellate Court has affirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing this revision as 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 2004 and thereby more than 15 years have rolled by since then. He is aged about 50 years. The applicant has already remained in jail for

about more than 22 days and no useful purpose would be served in again sending him to jail. Therefore, it would be in the interest of justice if the sentence imposed on him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses Jagdish (PW-1), Dhal Singh(PW-2), Noha Lal(PW-4), Dr. N. Sao(PW-4), Bhairav Ram(PW-6), Harprasad Sahu(PW-9) and Lakhan Lal (PW-11), establishes the involvement of the accused/applicant in the crime in question, this Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Section 304-A of the IPC, being so are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2004 and the applicant has already remained in jail for about more than 22 days and further considering the fact that the applicant has already faced a prolonged trial and suffered trauma of uncertainty arising out of his conviction by the Sessions Court, the revision is partly allowed and his sentence is liable to be reduced to the period already undergone by him. Conviction part of the impugned judgment is maintained.

10. The applicant is on bail. His bail bond shall stand discharged.

11. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
JUDGE