

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 56 of 2007

Shesh Narayan aged about 35 years S/o Sudarshan Verma R/o Village Gaintara Post – Karmada Police Station and Tehsil Baloda Bazar, District Raipur, CG.

---- Applicant

Versus

- State of Chhattisgarh through Station House Officer Police Station Kasdol, District Raipur, CG.

---- Respondent

For Applicant : Shri Ajay Kumar Chandra, Advocate

For State/Respondent : Shri Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

26/02/2019

Facts involved in this case go to show that on 20.02.2006 when the truck bearing registration No. MP023-D-7796 was standing for loading the sand, it ran over Krishna Kumar who was trying to get over it. Fact also show that while Krishna Kumar was getting over the truck, it started moving as a result of which he fell down and was crushed to death. On matter being reported to the police by brother of the deceased (PW-1), an offence u/s 304-A IPC was registered against the accused/applicant who acting in a rash and negligent manner had started the truck. After investigation, *challan* was laid under that section and the applicant was prosecuted accordingly.

2. Trial Court, on appreciation of the evidence on record held the accused/applicant guilty u/s 304-A IPC and sentenced to undergo RI for nine months with fine of Rs. 100/-. Lower Appellate Court also affirmed the findings of the trial Court vide judgment impugned.

3. At the very outset counsel for the applicant submits that he is not pressing the conviction of the applicant but his sole request would be for reduction of the sentence to the period already undergone keeping in mind the matter being old and that the applicant has already remained inside for 11 days. State counsel however supports the judgment impugned in letter and spirit.

4. Though the applicant has taken a defence that the death of the deceased was on account of his own mistake as he was trying to board the moving truck, but PW-1 and PW-2 have refuted the same and stated that when the deceased was getting over the truck only then its driver (the applicant herein) started the truck making the deceased fall down and meet the unfortunate death. PW-5 has also proved that at the relevant time the truck in question was being driven by the accused/applicant himself. Thus the material on records speaks unequivocally against the accused/applicant to the effect that the accident resulting in the death of deceased took place only on account of rash and negligent act of the accused/applicant. Both the Courts below have thus not committed any legal error while holding the accused/applicant guilty u/s 304-A IPC. His conviction is thus maintained.

5. As regards sentence, keeping in mind various factors existing at the present such as the case is quite old, he has already remained inside for 11 days and by now he must be reeling under the pressure of family responsibilities, interest of justice tilts in his favour. Accordingly this Court does not see any reason to again send him to jail and thereby disturb his well settled family life. Being so, the jail sentence imposed on him is reduced to the period already undergone by the accused/applicant. However, in lieu thereof the fine of Rs. 100/- as

imposed by the courts below is enhanced to Rs. 3,000/- to be deposited by him in the trial Court within a period of three months from the date of receipt of copy of this order. This order will lose its efficacy if the accused/applicant fails to make such deposit within the time mentioned above.

6. With the above observations and modifications in the order impugned, the revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan