

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 355 of 2011

Santosh Bhuwal, S/o. Sundar Singh Bhuwal, Aged about 36 years,
R/o. Shankar Nagar,Durg, District Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh through Police Station Arang, District Raipur
(C.G.)

---- Respondent

For Applicant : Mr. Samri Singh and
Mr. Tarun Dansena, Advocates
For Respondent : Mr. Himanshu Sharma, P L

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 24.06.2019

On 27.02.2003, FIR (Ex.P-2) lodged in Police Station Arang by complainant Ashok Dwivedi, wherein it is alleged that on the date of incident, he along with constable Krishna Kumar Yadav and Inspector Vedram Bhaskar were returning from Patewa to Raipur after annual inspection. When he reached near Mahanadi Bridge there he parked the Govt vehicle Tata 407 near bridge and both of them had gone for urinal and after discharging urinal constable Krishna Kumar Yadav was coming towards the vehicle at that time, the applicant was driving the Bus bearing registration No. CG 07 Z A 0437 in rash and negligent manner and hit Krishna Kumar, he sustained injuries from the said accident and he was admitted in the hospital and during the

treatment Krishna Kumar died in the hospital. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

2. 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.

3. 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.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. From the statement of the (PW-1),(PW-2), (PW-3),(PW-6) and (PW-7) it is proved that the applicant while driving the offending bus bearing registration No. No. CG 07 Z A 0437 in rash and negligent manner and hit Krishna Kumar. The said witnesses were cross- examined at length and maintained that applicant -Santosh Gwal- was driving the offending vehicle at a very high speed and in a rash & negligent manner, which resulted into accident. The mechanical examination of the offending vehicle was also got done. Apart from that, prosecution has been able to examine PW-11- Dr. Vikas Gonade, 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.

6. As regards sentence, keeping in view the fact that the incident had taken place in the year 2003, that the accused/applicant has already remained in jail for a period of about 06 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. 3000/- from that of Rs. 500/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of four months from today. Order accordingly.

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

Sd/-
(Vimla Singh Kapoor)
 JUDGE

Santosh