

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 231 of 2010

Ganesh Sheel and Another

Applicants

Versus

State Of Chhattisgarh. Through the District Magistrate,
Raigarh, District Raigarh (CG)

Respondent

Post for pronouncement of the Order on .05.2019

**JUDGE
Sd/-**

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on : 06.05.2019****Order delivered on : 17.05.2019****CRR No. 231 of 2010**

1. Ganesh Sheel, S/o Upendra Nath Sheel, Aged about 18 years
2. Santosh Kumar S/o Upendra Nath Sheel, Aged about 55 years

Both R/o Vill. Dharamjaigarh Colony, Thana
Dharamjaigarh, Raigarh

---- Applicants**Versus**

- State Of Chhattisgarh

---- Respondent

For Applciants	: Shri sunil Sahu and Smt. Laxmi Tondey, Advocate
For Respondent/State	: Shri Suryakant Mishra, PL

C A V Order**Hon'ble Smt. Justice Rajani Dubey****17/05/2019**

The present revision arises out of the impugned judgment of conviction and order of sentence dated 11.09.09 passed by the Third Additional Sessions Judge (FTC) Raigarh, district Raigarh in Cr. A. No. 24/2009, whereby the learned appellate court below has confirmed the conviction and sentenced the accused/applicants' as awarded by the learned Judicial Magistrate First Class, Dharamjaigarh vide its judgment dated

28.04.09 in Cr. Case No. 320/2007 for the offence under Section 3/181 and 5/180 of the Motor Vehicles Act and sentenced with fine of Rs. 500/- and 1,000/- respectively.

2. Brief facts of the case are that FIR was lodged at police station on account of death of one Raju Soni on 13.08.07 after suffering injuries in the accident, a week prior to his death. On the basis of merg No. 72/2007, offence under Section 304-A IPC was registered against the applicants. During investigation, the applicants were asked to produce the documents of the said vehicle, which were seized from them and case was registered under Sections 3/181 and 5/180 of the Motor Vehicles Act also. After investigation, charge sheet was filed, charges were framed against the applicants under Sections 297, 304-A IPC and Sections 3/181 and 5/180 of the Motor Vehicles Act.

3. In order to prove the guilt of the accused/appellant, prosecution has examined 10 witnesses. Statement of the accused/applicants were also recorded under Section 313 Cr.P.C. in which they denied the charges levelled against them and pleaded their innocence and false implication in the case.

4. After hearing counsel for the parties, vide impugned judgment and order of conviction dated 28.04.09, learned Magistrate has acquitted the applicants under Sections 279 and 304-A IPC and convicted them under Sections 3/181 and 5/180 Of the MV Act and sentenced with fine of Rs. 500/- and 1,000/- respectively.

5. This order was appealed by the applicants and in the

appeal learned appellant court has affirmed the conviction and sentenced the present applicants. Hence, the present revision.

6. Heard counsel for the parties and perused the material available on record and the impugned judgment.

7. Counsel for the applicants, after arguing at length submits that the conviction of the applicants was illegal and contrary to law. He submits that the applicants have not committed any offence and that the court below has committed error in not properly appreciating the evidence and therefore is liable to be set aside. In alternative, counsel for the applicants submits that the conviction of the applicants would adversely affect their career and therefore prayed that benefit under Section 360 Cr.P.C. shall be granted to the applicant so that their service career shall not be affected by their conviction. It is submitted that looking to the nature of offence, the fact that applicants have already deposited the fine amount, the application be allowed.

8. On the other hand, Counsel for the State submits that after due appreciation of evidence, learned court below has found the offence proved against the applicants which requires no interference. It is submitted that the application filed by the applicants be therefore, dismissed.

9. From perusal of the record, this Court is of the view that no illegality has been committed by the courts below in convicting the applicants. Hence, the judgment of conviction passed by the learned courts below requires no interference and is hereby maintained. Looking to the limited prayer made by the counsel

for the applicants and the nature of offence, that it is only a case of offence under Motor Vehicle Act, and the fact that the applicants have already deposited the fine amount for which counsel for the State has no serious objection.

10. In the result, the revision is partly allowed. Findings of conviction is hereby maintained but it is made clear that conviction of the applicants will not affect their service career in any manner. With the above observation, the revision stands dismissed.

Sd/-

(Rajani Dubey)
Judge