

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 210 of 2011

1. Ramesharu, aged about 26 years, son of Paharu Patel, resident of village Sonsari, Outpost PS Pachpedi, PS Masturi, District Bilaspur.

--- Applicant

Versus

1. State of Chhattisgarh through the Police Station Masturi, District Bilaspur

--- Respondent

For Applicant	-	Shri Dipak Jain, Advocate.
For Respondent/State	-	Shri Himanshu Sharma, PL

Order on Board by Hon'ble (Smt.) Vimla Singh Kapoor, J.

19.06.2019:

Material collected by the prosecution goes to show that on 22.07.2004 in the evening hours the deceased namely Suruj Bai had gone to the grocery shop of PW-2 to buy sugar and was waiting for her turn by sitting in a bench, accused/applicant herein came there riding the motorcycle in a rash and negligent manner and hit her causing injuries on her leg, thigh and chest which led to her death just the following day. Report against the accused/applicant being (Ex.P-1) was lodged by Chandra Ram (PW-3) and after registration of offence under section 304-A IPC, investigation followed culminating in filing of the charge-sheet.

2. Since the offending vehicle belonged to one Madhusudan Patel, offence under the Motor Vehicle Act was also registered

against him though subsequently he has been acquitted by the trial Judge vide judgment dated 28.01.2011 in Criminal Case No. 120/2008. It is the same judgment by which the accused/applicant herein has been convicted under Sections 304-A IPC and 3/181 of the Motor Vehicle Act. The sentence imposed by the trial Court was RI for two years with fine of Rs. 1000/- u/s 304-A IPC and that of fine of Rs. 500/- under the MV Act. In appeal also the conviction of the accused/applicant and the resultant fine sentence imposed on him have been maintained but at the same time the jail sentence has been reduced to one year from two years vide judgment impugned dated 30.3.2011 passed in Criminal Appeal No. 31/2011. Hence this revision.

3. Counsel for the applicant attacks the conviction and sentence slapped on the accused/applicant on the ground that the lower appellate Court has failed to consider the evidence collected by the prosecution in its proper perspective and therefore, the revision deserves to be allowed. State counsel however supports the judgment impugned being a well reasoned one.

4. On hearing counsel for the parties and taking into consideration the evidence of PW-1 to PW-4 - some of them happen to be the eyewitness to the incident, it remains undisputed that on the fateful day the accused/applicant drove the offending bike in a rash and negligent manner and rammed into the shop of PW-2 causing injuries to the deceased who at the relevant time was sitting on a bench lying nearby. Of course, the doctor examining the deceased before death has not been examined yet

the evidence the eyewitnesses who saw the entire happening from their naked eyes cannot be consigned to the waste paper box. All the witnesses, right from the very beginning, had been quite consistent and being so the conviction of the accused/applicant based on their testimony cannot be said to be irrational or unjustified. It is thus maintained.

5. Since the incident had taken place in the year 2004 and about 15 years have rolled by since then, and further that the accused/applicant has spent about a fortnight in detention, in the considered opinion of this Court, no useful purpose would be served in again sending him to jail at the stage when he must be bearing the burden of family responsibilities. Therefore, the jail sentence awarded to him is reduced to the period already undergone with a little enhancement of fine to Rs. 2000/- under Section 304-A IPC and to Rs. 1000/- under the MV Act from the ones awarded by the Court below. Let this amount be deposited in the trial Court within a period of four months to avail the benefit of this order.

6. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)
Judge