

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 385 of 2011**

- Premlal @ Udal S/o Chatur Sahu, aged about 45 years, R/o village Chhatapathar, Police Station Basana, District-Mahasamund (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station – Basana, District – Mahasamund (C.G.)

---- Respondent

For Appellant	:	Shri Y.C. Sharma, Advocate
For Respondent/State	:	Shri Neeraj Kumar Mehta, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****05.04.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 11/07/2011 passed by the Second Additional Sessions Judge, Mahasamund (C.G.), in Cr. Appeal No. 80/2010 whereby, the learned appellate Court below has confirmed the conviction and modified the sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Saraypali, vide its judgment dated 30/03/2010 in criminal case no 861/2010 for the offence under Sections 304 A and 279 IPC. The sentence of the accused/applicant has modified as described below :-

Conviction	Sentence
Under Section 304(A) of IPC	R.I. for 1 year and fine of Rs. 500/-.
Under Section 279 of IPC	R.I. for 3 months.

2. Brief facts of the case are that on 09/12/2008 at 9 PM, the applicant along with complainants Macch Kumar, Jageshwar and

Amritlal were going in the unnumbered tractor trolley of applicant Premlal Sahu for bringing plane stone from village Beltikri. When they were returning after collecting plane stone, at about 9.00 PM, near the house of Macch Kumar, the tractor trolley turned from one side due to rash and negligent driving of the applicant in which, Jageshwar who was sitting on the plane stone, fell down on the ground as a result of which he sustained multiple injuries including fracture and he died in the hospital during the course of treatment. After completion of usual investigation, charge-sheet was filed and charges were framed against the accused/applicant under Sections 279 and 304-A IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 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 30/03/2010, learned Judicial Magistrate First Class, has convicted and sentenced the applicant. This order was appealed by the applicant and in the appeal, the learned Appellate Court while maintaining the conviction, has modified the sentence of the applicant as described above. Hence, the present revision.

5. Heard learned 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 the revision so 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 2008 and thereby more than 11 years have rolled by since then. He is aged about more than 55 years. The applicant has already remained in jail for about 11 days, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

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

8. Having gone through the material on record and the evidence of the witnesses J.P. Pradhan (PW-1), Machha Kumar (PW-2), Babulal (PW-3), Sahasram (PW-4), Chunnu Lal (PW-5), Lohan (PW-6), Chain Singh (PW-7), established the involvement of the accused/applicant in the crime in question beyond reasonable doubt. This Court does not find any illegality in the findings recorded by both the Courts below as regards conviction of the appellants under Sections 304 (A) and 279 of IPC.

9. As regards sentence part, keeping in view the facts that the incident had taken place in the year 2008 and further that the appellant had already remained in jail for about 11 days. This Court is of the opinion that no useful purpose would be served in sending him back to jail at this stage and the ends of justice would be served if he is sentenced to the period already undergone by him by imposing additional fine of Rs.5,000/-.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant under Section 304 (A) and 279 of IPC, he is sentenced to the period already undergone by him. However, he is directed to pay an additional fine of Rs. 5,000/- within six months from today, failing which he shall have to undergo RI for two months. The fine amount so deposited by the applicant before the trial Court be paid to the family of deceased Jageshwar after due verification by it.

Sd-
(Rajani Dubey)
JUDGE