NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 648 of 2010

- Indra Kumar S/o Akaluram, aged about 38 years, R/o village Nawagaon, Police Station Chhauikhadan, District Rajnandgaon, C.G.

---- Applicant

Versus

- State of Chhattisgarh, through Police Station Saja, District Durg, C.G.

---- Respondent

For Appellant	:	Shri Abhishek Pandey
For Respondent/State	:	Shri Santosh Bharat, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

27.02.2019

1. The present revision arises out of the impugned judgment and order dated 29/11/2010 passed by Additional Sessions Judge, Bemetara, District Durg in Cr. Appeal No. 23/2010 whereby the learned appellate Court has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Saja, vide its judgment dated 29/04/2010 in Cr. Case No. 58/2009 for the offence under Section 304-A IPC and sentenced him to undergo RI for six months and to pay fine of Rs. 1,000/- plus default stipulation.

2. Brief facts of the case are that on 29/03/2008 at about 7:30 PM , when Ku. Raina was going with her younger sister Ku. Maina in a bicycle the accused/applicant dashed the bicycle driving tractor trolley bearing No. CG 08 C 6467 and CG 07 D 1164 rashly and negligently. Ku. Maina sustained grievous injuries in the incident and succumbed to her injury on the spot. FIR was lodged against the applicant/accused

under Section 304-A IPC. After completion of usual investigation, the charge-sheet has filed and the Trial Court framed charge against the accused/applicant under Section 304 A.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 11 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties vide impugned judgment and order dated 29/04/2010, learned Magistrate has convicted the accused/applicant for the offence under Section 304-A IPC and has sentenced to undergo RI for six months with fine of Rs. 1000/- with the stipulation default. This order was appealed by the applicant and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the appellant 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 had taken place in the year 2008, and thereby more than 10 years have rolled by since then, he is aged more than 50 years, the applicant has already remained in jail for about 12 days and no useful purpose would be served in again sending him to jail, therefore, it would be in the interest of justice if the sentence imposed on him 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 Ku. Raina (PW-1), Dallu (PW-2), Seeta Bai (PW-3) and Domar Singh (PW-5), established the involvement of the accused/applicant in the crime in question. This Court does not see

any illegality in the findings recorded by both the Court below as regards conviction of the appellant under Section 304-A IPC, being so they are hereby maintained.

9. Taking into consideration, the aforesaid material aspect of the case and the fact that the incident had taken place in the year 2008, and the applicant has already remained in jail for about 12 days, the revision petition is partly allowed. While maintaining the conviction of the appellant under Section 304-A IPC, his sentence is reduced to the period already undergone by him imposing fine of Rs.5,000/-. In default of payment of fine amount, the applicant shall have to undergo RI for two months.

8. Revision thus partly allowed.

Sd/-

(Rajani Dubey)
JUDGE