

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 616 of 2008

Gulab Ram Sahu, S/o Sant Ram Sahu, aged about 24 years, R/o Village Tumgaon, Tahsil & District Mahasamund, CG.

---- Applicant

Versus

- State of Chhattisgarh through Police Station Tumgaon, District Mahasamund, CG.

---- Respondent

For Applicant : Shri Deepak Jain, Advocate

For State/Respondent : Shri Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

09/04/2019

The facts of the case, in brief, are that on 10.10.2003 at about 3.30 pm when the deceased namely Purima was returning from the school on bicycle, the tractor bearing registration No. CG.-06A/5052 attached with trolley No. CG.06A/5053 which was being driven by the accused/applicant in a rash and negligent manner came there and hit her causing number of injuries leading to her on the spot death.

2. On the basis of subsequent registration of FIR, an offence under Section 304-A IPC was registered against the accused/applicant. After investigation challan was also filed and the said section. By judgment dated 19.03.2008 passed by JMFC Mahasamund in Criminal Case No. 357/2006. The accused/applicant has been convicted under Section 304-A IPC and sentenced to RI for one year and pay fine of Rs. 1000/- plus default stipulation. The findings of learned Magistrate have been affirmed in appeal also vide judgment impugned dated 02.09.2008. Hence this revision.

3. Counsel for the accused/applicant submits that both the courts below have held the accused/applicant guilty under Section 304-A IPC without properly appreciating the evidence of the witnesses. According to him, the judgment impugned being contrary to the evidence on record is liable to be set aside. State counsel however supports the judgment impugned in letter and spirit.

4. Though the sole eye witness PW-2 has stated that he saw the accused/applicant driving the offending vehicle in a rash and negligent manner which hit the deceased who was returning from the school on her bicycle. He has further stated that the impact of the accident in which the deceased girl had come under the front wheel of the offending tractor was the only cause of her death. PW-7 the witness to seizure of the tractor has also supported the case of the prosecution. The doctor (PW-10) who conducted postmortem examination of the deceased has stated that the cause of death of the deceased was respiratory failure on account of bleeding injuries in several vital organs. No mechanical defect in the tractor has been pointed-out by the defence to show the bona-fide of the accused/applicant.

5. The over all view taken by the Court below is based on the correct appreciation of the evidence of the witness and being so, the judgment impugned convicting the accused/applicant under Section 304-A IPC for causing the death of a minor girl through his rash and negligent act of driving the offending vehicle carelessly appears to be fully justified. His conviction is maintained.

6. As regards sentence, keeping in mind the fact that the incident is quite old and the accused/applicant has already remained in jail for 09 days, this Court is of the opinion that interest of justice would be met if

the sentence imposed on him is reduced to the period already undergone by enhancing the fine amount. Order accordingly. The fine imposed by the Court below is enhanced to Rs. 3,000/- to be deposited in the trial Court within the period of four months from today. Failure in making such deposit will not make this order available to the applicant.

7. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan