

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 745 of 2008

Dasharath Dhimar S/o. Dayaram Dhimar, Aged about 37 years,
R/o. Village Chuiha, Present R/o. Village Basin, Police Station
Rajim, District Raipur (C.G.) **---- Applicant**

Versus

State of Chhattisgarh, Through District Magistrate, District Raipur
(C.G.) **---- Respondent**

For Applicant : Ms. Mandvi Bhardwaj, Advocate.
For Respondent : Mr. Raghvendra Verma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 04.04.2019

This revision is directed against the judgment dated 06.11.2008 passed by the Additional Sessions Judge Gariyaband District Raipur in Criminal Appeal No. 18 of 2008, affirming the judgment of conviction and order of sentence dated 23.04.2008 passed by the Judicial Magistrate, First Class, Rajim in Criminal Case No. 476/2008, convicting the accused/applicant under Sections 337 and 304-A IPC and sentencing him to undergo RI for 3 months and to pay fine of Rs. 2000/- u/s 304(A) IPC and to pay fine of Rs. 300/- u/s 337 IPC plus default stipulation.

2. On 21.05.2005, FIR (Exp-2) was lodged by Ramesh Kumar, alleging that the applicant was the driver the matador bearing

registration No. CG No. 04 ZB /2576. On the date of incident, the applicant was driving the offending vehicle with rash and negligent and dashed his father, as a result of which Suraj sustained grievous injuries on his left leg and head and died on the spot. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

6. From the statement of the (PW-1) and (PW-2), it is proved that the applicant while driving the matador bearing registration CG No. 04 ZB /2576. in a rash and negligent manner and hit deceased Suraj. It is also established from the statements of those witnesses that on account of the rash and negligent act of the accused/applicant, deceased died on the spot. It is true that the applicant was the first offender and he acted in a negligent

manner. It appears that the applicant does not challenge his conviction directed against him. Also the concurrent finding given by both the Courts below for the conviction which depends upon the facts cannot be interfered without any substantial reason, and therefore there is no need to make any interference in the conviction directed by both the Courts below. It is hereby maintained.

7. As regards sentence, keeping in view the fact that the incident had taken place in the year 2005, that the accused/applicant has already remained in jail for a period of 13 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. In lieu thereof, the applicant is now directed to pay Rs 3000/- instead of Rs. 2000/- as imposed by the Court below. Let the enhanced amount of fine be deposited in the trial Court within a period of four months from the date of receipt of copy of this order. Failure in doing so within the time frame so fixed will make the accused dis-entitled of receiving the benefit of this order.

8. With the above, the revision stands allowed in part.

Sd/-

(Vimla Singh Kapoor)

JUDGE