

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 213 of 2008

1. Bhushan Lal son of Rameshwar Singh, aged about 40 years,
R/o Sirrabhata, PS Gunderdehi, District Durg, CG

--- Applicant

Versus

1. State of Chhattisgarh through Police Station Gurur,
District Durg, CG

--- Respondent

For Applicant	-	Shri B.N. Nande, Advocate.
For Respondent/State	-	Shri Himanshu Sharma, PL

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

27.06.2019:

Material collected by the prosecution goes to show that on 29.04.2002 when the paddy laden offending tractor driven by the accused/applicant herein was passing under the swaying live electric wire, the deceased perching atop the sacks came in contact with the same, fell off the vehicle and breathed his last then and there. Matter was reported to police, investigation began and the charge-sheet came to be filed against the accused/applicant under Section 304-A IPC.

2. Trial Court vide judgment dated 28.07.2007 held the accused/applicant guilty for his rash and negligence while driving the tractor where one person has lost his life, and imposed the sentence of RI for one year with fine of Rs. 1000/-. In appeal also,

the view of the trial Court came to be affirmed as a whole vide judgment impugned dated 07.03.2008. Hence this revision.

3. Counsel for the applicant attacks the conviction and sentence slapped on the accused/applicant on the ground that both the Courts below have 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. Evidence of Narendra (PW-1) and Komal Ram (PW-2) clearly establishes that it is the rashness and negligence of the accused/applicant while driving the tractor which made the deceased lose his life. These witnesses have unequivocally stated that the accused/applicant was fully aware that the deceased was sitting on the paddy sacks which were 50-60 in number going upto the height of about two meters from the base of the trolley, and therefore he should have taken proper care while taking the tractor under the swaying live electric wire. Witnesses have further clarified that the tractor could have easily passed under those wires, had proper care been taken by the accused/applicant. Doctor (PW-5) who conducted the postmortem examination on the dead-body has also stated that death of the deceased was the direct outcome of the electrocution. Thus there is ample evidence to prove the negligence of the accused/applicant involving the death of an innocent poor fellow, and being so his conviction under Section 304-A IPC is hereby maintained.

5. Since the incident had taken place in the year 2002 and about 17 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. Fine amount of Rs. 1000/- is however enhanced to Rs. 5000/- to be deposited by the appellant in the trial Court within a period of four months from today or else this order may lose its efficacy.

6. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)
Judge