

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 238 of 2008

Shiv Kumar, S/o Karan Singh Thakur, aged about 48 years, R/o Behind Mehamaya Temple, Ward No.25, Rajnandgaon, Police Station Rajnandgaon (C.G.)

---- Applicant

Versus

The State of Chhattisgarh through Police Station Daundilohara, District Durg (C.G.)

--- Respondent

For Applicant : None

For State/Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

05/03/2019

Bailable warrant issued to the accused/applicant returned unserved vide report dated 02.02.2019 with remark that he is no more. Certificate dated 15.01.2009 also shows that the accused/applicant died on 29.12.2008. Though accused/applicant died during the pendency of this revision yet in the light of the order passed by Hon'ble Apex Court in the matter of *Pranab Kumar Mitra Vs. State of WB reported in AIR 1959 SC 144*, this Court proceeds to decide this case on its own merits.

2. Facts of the case indicate that on 20.01.1988 a car bearing registration No. CIL-4124 driven by the accused/applicant in a rash and negligent manner came from Rajnandgaon side and hit Premlal and Kunwar Singh – both in the single digit age. On account of the accident Kunwar Singh sustained simple injuries but Premlal suffered grievous injuries which proved fatal leading to his death after being admitted in the hospital. Matter was reported to the Police, vehicle was seized, applicant was taken into custody, after investigation *challan* was filed under Sections 279, 337 and 304 (A) IPC and ultimately he was held guilty under the same sections after completion of trial vide judgment dated 06.06.2007 passed in Criminal Case No.553/2005. Said order received

affirmation in appeal vide judgment dated 25.03.2008 passed by Additional Sessions Judge (FTC) Balod, District Durg in Criminal Appeal No.34/2007. It is that order which has been attacked in this revision petition.

3. There is no representation on behalf of the applicant but the State counsel holds the judgment impugned to be just and proper.

4. Almost all the witnesses have stood firm in stating that it is the vehicle No. CIL - 4124 which caused the accident leading to the death of one tender aged boy and making the other boy in the same age group injured. PW-1 has even added in his version that the said vehicle at the relevant time was being driven by the accused/applicant and none else. He has also stated that those two boys were playing by the side of the road at the distance of about 5 yards from the road. Record also shows that even after hitting the two boys the accused/applicant did not stop and sped away with the car in question. PW-9 who did postmortem examination of the deceased boy has noticed number injuries on various parts of his body including depressed fracture on the right parietal area of his head. Postmortem report is Ex.P-4. Almost all the witnesses have also stated that the accused/ applicant was driving the vehicle at a great speed and in a rash and negligent manner too. Thus it is established that it is on account of rash and negligent driving of accused/applicant one boy lost his life and the other sustained injuries, maybe simple in nature. Both the Courts below have rightly held the accused/applicant guilty under Sections 304(A), 279 and 337 IPC. No interference is warranted in the well reasoned orders passed by both the Courts below.

5. Revision thus being without any substance is hereby dismissed.

Sd/-
(Vimla Singh Kapoor)

Judge