

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 260 of 2008**

- Hafeej Khan S/o Guljar Khan, aged about 45 years, R/o Motipur, Near Ambedkar chowk Rajnandgaon, District-Rajnandgaon, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : Police Station Balod, District-Durg, Chhattisgarh.

---- Respondent

For Applicant	:	Ms. Nirupma Bajpai, Adv.
For Respondent/State	:	Mr. Anil Tripathi, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****29/08/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 02.04.2008 passed by the learned Additional Sessions Judge, Balod, District-Durg, in Cr. Appeal No. 73/2007 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Balod, vide its judgment dated 05.09.2007 in Criminal Case No. 2251/2005 for the offence punishable under Sections 279, 337 and 338 of IPC and sentenced him to undergo R.I. for six months with fine of Rs. 1000/-, R.I. for three months with fine of Rs. 500/- and R.I. for six months with fine of Rs. 1000/- respectively, plus default stipulation.

2. Brief facts of the case are that the complainant lodged a report that on 24.09.2002 when complainant Pratapchand was driving Metador bearing Registration No. MP-24-C-4548 and going towards Dhamtari from Balod, applicant who was driving a bus bearing Registration No. CG-08-ZA-0135, dashed him from the front. Due to this he and other persons suffered grievous injuries. After completion of investigation, charge sheet was filed and charges were framed against accused/applicant under Sections 279, 337 and 338 of the IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 14 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 05.09.2007, learned Judicial Magistrate has convicted the accused/applicant for the offence punishable under Sections 279, 337 and 338 of IPC and sentenced him to undergo R.I. for six months with fine of Rs. 1000/-, R.I. for three months with fine of Rs. 500/- and R.I. for six months with fine of Rs. 1000/- respectively, plus default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the appellant. Hence, the present revision.

5. Learned counsel for the applicant submits that he is not pressing this revision as 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 is said to have taken place in the year 2002, and thereby more than 17 years have rolled by since then. The applicant has already remained in jail for about 20 days, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

6. Learned counsel for the State has no objection to this proposition.

7. Heard learned counsel for the State and perused the material on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the Pratapchand (PW-1), Doman (PW-2), Kishun Lal (PW-3), Dr. Shashi (PW-4), Alka Bhandari (PW-5), Moh. Nazeer Ahmad (PW-6), Moh. Haneef Solanki (PW-11), Girja (PW-12), Bhojwati (PW-13) and Dr. Ikbāl Parvej (PW-14), established involvement of the accused/applicant in the crime in question stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2002, and further that the applicant had already remained in

jail for about 20 days, therefore, his sentence is liable to be reduced to the period already undergone by him.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant, he is sentenced to the period already undergone by him. The applicant is on bail. His bail bond will stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**