

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 312 of 2008

Santram Sahu S/o Shobharam Sahu, Caste – Sahu, aged about
30 years, R/o Tekapar, District Durg

---- **Applicant**

Versus

State of Chhattisgarh through P.S. Gurur, District Magistrate, Durg
CG.

---- **Respondent**

For Applicant : Shri Jitendra Gupta, Advocate

For State/Respondent : Shri Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

04/04/2019

The facts necessary for disposal of this revision petition in short are that on 28.05.2006 at about 10 AM when one Virendra Sahu was returning from Dhamtari on his Luna Moped, the accused/applicant herein came there driving a bus bearing registration No. CG 04 ZA/0776 in a rash and negligent manner and dashed him leading to his instantaneous death. Not only this, the deceased along with his moped got stuck to the offending bus and went on dragging to a considerable distance. This incident was witnessed by two persons namely Ratiram (PW-2) and Hariram (PW-3) who at the relevant time were also passing thereby. After being taken to the hospital the deceased was declared brought dead. On the report lodged by Hariram (PW-3) an offence under Section 304-A IPC was registered against the accused/applicant and after completion of investigation *challan* was filed accordingly.

2. Having taken note of the evidence learned trial Court vide its judgment dated 11.10.2007 passed in Criminal Case No.369/2006 convicted the accused/applicant 304-A IPC and sentenced him to undergo RI for 8 months and pay fine of Rs.700/- plus default stipulation. The

findings recorded by the trial Court have also been kept intact even in appeal vide judgment impugned dated 23.04.2008. Hence this revision.

3. Counsel for the accused/applicant submits that the witnesses examined by the prosecution have not been consistent in deposing the things but yet the Court below has proceeded with the same and ultimately held the accused/applicant guilty under Section 304-A IPC, which is not proper. State counsel however supports the judgment impugned.

4. Taking into consideration the evidence of the witnesses in particular PW-2 and PW-3 it is manifest to this Court that on the fateful day it is the applicant who was driving the vehicle in a rash and negligent manner and dashed the deceased who was riding his Luna Moped to get back home. The deceased is stated to be on the left side of the road while riding the Moped and, therefore, he cannot be said to have contributed to the accident involving his death. Even the doctor who committed the postmortem examination has noticed multiple fractures on various parts of the body of the deceased. None of the witnesses has stated anything specific as to whether there was any mechanical fault in the offending vehicle making it probable to result in the accident. PW-6 has also proved the seizure of documents pertaining to the offending vehicle including the driving licence of the accused/applicant. The damaged Luna Moped was also seized from the spot. All these things go to prove that the accused/applicant was actively involved in commission of the offence in question where one life has been lost. No illegality in the well reasoned conviction part of the judgment impugned is noticeable and it is accordingly maintained.

5. As regards sentence, keeping in mind the fact that the incident is quite old and the accused/applicant has already remained in jail for 9

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.

6. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay/p