

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 322 of 2008

Gandhi Ram Sahu, S/o Shri Khetu Ram, age 40 years, R/o Village Mahamaya, Police Station Mahamaya, District Durg.

---- Applicant

Versus

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

--- Respondent

For Applicant : Shri Rajendra Kumar Patel, Advocate on behalf of Shri Abdul Wahab Khan, Advocate

For Respondent : Shri Himanshu Sharma, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

04/04/2019

On the report lodged by one Bisan Kumar (PW-1) case under Sections 279, 337 and 338 IPC was registered against the accused/applicant alleging that on 10.10.2000 the accused/applicant dashed against a stationary vehicle parked by the side of the road as a result of which people aboard in both the vehicles sustained injuries. After medical examination of the injured persons *challan* was laid under the aforesaid sections.

2. Having seen the material on record learned trial Judge vide its judgment dated 16.03.2007 convicted the accused/applicant under Sections 279 and 337 IPC and sentenced him to pay fine of Rs.1000/- under Section 279 and RI for 3 months with fine of Rs.500/- under Section 337 IPC. In appeal also the findings of the trial Judge have been affirmed vide judgment impugned.

3. Counsel for the applicant submits that the erroneously recorded findings of both the Courts below are required to be set aside as they are not as per the evidence of the witnesses. State counsel however supports the judgment impugned.

4. Evidence of the lodger of the report (PW-1) has been duly supported by the evidence of PW-2, PW-4 and PW-10 in which they have stated that the offending vehicle driven by the accused/applicant had dashed a stationary truck parked by the left side of the road. There appears to be no personal ill will between these witnesses and the accused/applicant to doubt the testimony of the prosecution/witness. PW-5 and PW-9 are the doctors who medically examined the victims aboard the vehicles have duly proved the injuries suffered by them though they were simple in nature. No evidence has been adduced by the defence to the effect that the accident was caused on account of any mechanical fault in the offending vehicle and being so the conviction of the accused/applicant as described above does not suffer from any illegality or infirmity. Being so, the conviction is maintained.

5. As far as the sentence part of the judgment impugned is concerned, this Court feels it proper to take into account that being the driver by profession the accused/applicant happens to be the sole breadwinner of the family and also considering the fact that he has already remained in jail for 13 days, no reason strikes the judicial mind of this Court to again send him jail after such long lapse of time, therefore, the sentence imposed on him is reduced to the period already undergone by enhancing the fine amount to Rs.1000/- from that of Rs.500/-. Let this amount be deposited in the Court below within a period of 4 months from today or else he may not derive the benefit of this order.

6. Revision thus partly allowed.

Sd/-
(Vimla Singh Kapoor)

Judge