

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 348 of 2008**

- Chimman Lal S/o Sevak Ram Sonkar aged about 30 years, R/o Rajhara, behind of Anad home, P.S. Rajhara, District-Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh, Through : P.S. Doudi, District- Durg, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Pradmod Ramteke, Adv.
For Respondent/State	:	Mr. Wasim Miyan, PL.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****11/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 13.05.2008 passed by the learned Additional Sessions Judge (FTC), Balod, District- Durg, C.G. in Criminal Appeal No. 90/2007 whereby, the learned appellate Court below has affirmed the conviction and modified the sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Balod, District-Durg, vide its judgment dated 25.10.2007 in Criminal Case No. 520/2005 for the offence under Section 304(A) of IPC and sentenced him to undergo R.I. for 6 months with fine of Rs. 1,000/-, plus default stipulation.
2. The allegation against the present applicant is that, on 24.11.2004 at about 11:00 am., while deceased Ramkumar Thakur was going on his duty by his own motorcycle and when he reached near Sinha Cycle Store, at that time, a Metador bearing registration No. CG-07-ZV-0703, which was driven by the

applicant in rash and negligent manner, dashed the deceased and subsequently he died on the spot. Thereafter, FIR was lodged. After completion of investigation, charge sheet was filed and charges were framed by the trial Court against accused/applicant under Section 304(A) of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 12 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.
4. After hearing the parties, vide judgment of conviction and order of sentence dated 25.10.2007, learned Judicial Magistrate First Class has convicted and sentenced the accused/applicant for the offence under Section 304(A) of IPC and sentenced him to undergo R.I. for 8 months and to pay fine of Rs. 1,000/-, with default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court while maintaining the conviction, has modified the sentence of the applicant as described above in para-1 of this order. Hence, the present revision.
5. Learned counsel for the applicant submits that he is not pressing the revision so 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 2004, and thereby more than 16 years have rolled by since then. He is aged about 42 years. The applicant has already remained in jail for more than 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 the applicant may be reduced to the period already undergone by him.
6. Learned counsel for the State has no objection to this preposition.
7. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the witnesses Paltan Singh (PW-2), Kraparam (PW-4), Sumiran (PW-5), Kanhaiya Lal (PW-6), Dr. R. Ramteke (PW-7), Raghuram Verma (PW-8), and Krashna Kumar (PW-10), established the involvement of the accused/applicant in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by the appellate Court below as regards conviction of the applicant under Section 304(A) of IPC.
9. As regards sentence, keeping in view the facts that incident had taken place in the year 2004, and further that the appellant has already remained in jail for more than 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 appellant, 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