

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 365 of 2008

Jainarayan Singh, S/o Prakash Narayan, aged about – 28 years, R/o. Chakarbhata, District – Bilaspur, C.G.

---- Applicant

Versus

State of Chhattisgarh, Through the District Magistrate, District – Bilaspur, C.G.

---- Respondent

For Applicant	:	Shri Goutam Khetrapal, Adv.
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

26.04.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 29.05.2008 passed by the learned Sessions Judge, Bilaspur, District – Bilaspur, C.G. in Cr. Appeal No. 10/2008, whereby the learned appellate Court below has confirmed the conviction and sentence of the applicant as awarded by the learned Chief Judicial Magistrate, District – Bilaspur, vide its judgment dated 29.01.2008 in Cr. Case No. 2585/2003 for the offence under Section 279 of the IPC and sentenced him to pay fine of Rs. 500/-, under Section 337 of the IPC and sentenced him to pay fine of Rs.500 and under Section 304(A) of the IPC and sentenced him to undergo RI for one year and to pay fine of Rs.300/-, with default stipulations.

2. Brief facts of the case are that on 30th March, 2003, complainant Parvati Bajaj was going with his husband to attend the Satsang in Safari bearing registration No MP 26 KC 1993, when they returned back vehicle No. CG 10 ZB 2347 was dashed to their motorcycle which was driven by the accused in rash and negligent manner due to which the complainant sustained injuries and his husband was died at the spot. Thereafter, a report was lodged in the police station by the complainant. After completion of investigation, charge-sheet was filed and charges were framed against the accused/applicant under Section 279, 337 and 304(A) of the IPC by the trial Court.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 10 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 29.01.2008, learned Chief Judicial Magistrate has convicted the accused/applicant under Section 279 of the IPC and sentenced him to pay fine of Rs. 500/-, under Section 337 of the IPC and sentenced him to pay fine of Rs.500 and under Section 304(A) of the IPC and sentenced him to undergo RI for one year and to pay fine of Rs.300/-, with default stipulations. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. 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 2003 and thereby about 16 years have rolled by since then, he is aged about 40 years, the applicant has already remained in jail for about 10 days and no useful purpose would be served in again sending him to jail. Therefore, it would be appropriate in the interest of justice if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses including Dr. B.R.Hotchandani (PW-1), Dr. Madhulika Sen (PW-2), Smt. Parvati Bajaj (PW-3), B.K. Bhoi(PW-6), Surendra Singh(PW-7), Shankar Lal Hirwani(PW-8) and Dr. T.S. Shyam(PW-9) established the involvement of the accused/applicant in the crime in question. This Court does not see any illegality in the findings recorded by both the Court below as regards conviction of the applicant under Sections 279, 337 and 304(A) of the IPC being so it is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2003 and further that the applicant has already remained in jail for about 10 days, no useful purpose would be served in again sending him to jail at this stage and the ends of justice would be served if he is sentenced to the period already undergone by him with a direction to pay additional fine of Rs.5000/-.

10. In view of the above, the revision is partly allowed. While maintaining the conviction of the applicant, his jail sentence is reduced to the period already undergone by him. However, he is directed to pay

an additional fine of Rs.5000/- within six months from today, failing which he shall have to undergo RI for two months. The fine amount so deposited by the applicant before the Trial Court be paid to the legal heirs of the deceased after due verification by the trial Court. The applicant is reported to be on bail. His bail bond shall stand discharge.

Sd/-
(Rajani Dubey)
Judge

yasmin