

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 666 of 2008

Basant Kumar S/o Trilochan Sahu, aged about 22 years, residence of Village Mugjhar, Pllice Station Devbhog, District Raipur, CG

---- Applicant

Versus

State of Chhattisgarh through the District Magistrate Raipur, District Raipur, CG.

---- Respondent

For Applicant : Smt. Indira Tripathi, Advocate

For State/Respondent : Shri Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

25/04/2019

FIR (Ex. P-3) recorded on the basis of dehati *Nalasi* (Ex. P-1) made by Sukalu (PW-1) goes to show that on 08.12.2007 the accused/applicant who was riding his motorcycle in an inebriated condition and also in a dramatic manner, hit the pedestrian deceased as a result of which he suffered number of injuries on his body including the vital parts. After being taken to the local hospital he was medically examined by the doctor (PW-5) who looking to the seriousness of the injuries referred him to the Medical College Raipur but before being shifted he died there itself. After completion of investigation, the *challan* was filed, charges framed and trial commenced where the accused/applicant was found guilty under Section 304-A IPC and Sections 3/181 and 130(3)/177 of Motor Vehicle Act vide judgment dated 11.04.2008 passed by JMFC Deobhog in Criminal Case No. 286/2008. Learned Magistrate imposed the sentence of RI for one year with fine of Rs. 2000/- u/s 304-A IPC; fine of Rs. 500/- u/s 3/181 of Motor Vehicle Act and fine of Rs. 50/- u/s 130(3)/177 of Motor Vehicle Act, plus default stipulations. In appeal also the findings recorded

by the trial Court have been maintained as a whole vide judgment impugned 27.09.2008. Hence this revision.

2. Counsel for the accused/applicant submits that the judgment impugned is not based on the evidence of the witnesses and therefore, the same is liable to be set aside. State counsel however supports the judgment impugned.

3. The sole eyewitness examined by prosecution is PW-1 who at the relevant time was standing in front of his house and saw the accused/applicant driving his motorcycle in a drunken state and in a dramatic manner, hit the deceased. According to him, at that time number of people were also present nearby. PW-2 and PW-3 have also supported the case of the prosecution stating that the accused/applicant was driving his motorcycle at a high speed and hit the deceased who was going on foot. They have also stated that on account of the injuries the deceased died in the hospital during the treatment. Investigating Officer (PW-4) has also supported the case of the prosecution describing the formalities drawn by him culminating in filing of the charge-sheet. The doctor (PW-5) who medically examined the deceased and also conducted the postmortem after death has stated that he noticed abrasions, lacerations and swelling on various parts of his body including the vital ones being the parietal and temporal region of his head. The cause of death opined by the doctor is shock due to internal hemorrhage and the death was accidental in nature. The doctor has further stated that looking to the seriousness of the injuries he referred the victim to medical college Raipur but in the meanwhile he breathed his last. The accused/applicant was also not having the valid driving license to drive the offending vehicle. Though the act of the accused/applicant in driving the vehicle in an inebriated condition and also in a dramatic manner goes to show that the death of the deceased was on account of his carelessness and it is he

who was responsible for that, looking to all these factors, the conviction of the accused/applicant appears to be just and proper and no inference is required there with. It is accordingly maintained.

4. As regards sentence, keeping in mind various factors in particular that the incident had taken place in the year 2007 and the accused/applicant has already remained in jail for 7 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/- from that of Rs. 2,000/- for the offence under Section 304-A IPC to be deposited in the trial Court within a period of four months from today. Failure in making such deposit will not make this order available to the applicant. Fine under other sections shall remain as it is.

5. Revision allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge