

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 357 of 2009**

- Kutubuddin Ansari, aged about 24 years, S/o Sarfuddin, presently R/o Budhwari Gandhi Chowk, behind Shiv Mandir, Kobra, Police Station Citykotwali, District- Kobra (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, through Police Station Railway Police Force Kobra, District – Kobra (C.G.)

---- Respondent

For Applicant	:	Shri Raj Kumar Gupta
For Respondent/State	:	Shri Vikash A. Shrivastava, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****27.02.2019**

1. The present revision arises out of the impugned judgment and order dated 04/07/2009 passed by the 9th Additional Sessions Judge(FTC) Bilaspur, in Cr. Appeal No. 08/2009 whereby the learned appellate Court has confirmed the conviction and Modified sentence of the accused/applicant as awarded by the learned Speical Railway Magistrate, Bilaspur, vide its judgment dated 19/11/2008 in Cr. Case No. 1856/2006 for the offence under Section 160 (2) Indian Railway Act and sentenced him to undergo RI for six months instead of one year.

2. Brief facts of the case are that on 15/06/2006 A.S.I. B.K. Yadav received information from Station Master Gevra Yard, that in the west label Railway crossing of Gevra Railway Station, Vehicle bearing No. C.G. 13-A/4256 was standing and boom of the gate found to be

broken. After investigation, the fact disclose that due to negligent driving of the driver of the offending vehicle, the accident occur. Therefore, an FIR was registered under Section 160 (B)/179 of Indian Railway Act against the applicant.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 5 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 his innocence and false implication in the case.

4. After hearing the parties vide impugned judgment and order dated 19/11/2008, learned Railway Magistrate has convicted the accused/applicant for the offence under Section 160 (2) Indian Railway Act and has sentenced to undergo RI for one year. This order was appealed by the applicant and in the appeal, learned Appellate Court has confirmed the conviction and reduced the sentence part from RI one year to RI six months. Hence, the present revision.

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

6. Counsel for the appellant 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 2006 and thereby more than 12 years have rolled by since then, he is aged about 40 years. He further argued that the applicant has already remained in jail for about two months and no useful purpose would be served in again sending him to jail, therefore, it would be in the interest of justice if the sentence imposed on him may be reduced to the period already undergone by him.

7. Learned counsel for the State has no objection to this preposition.

7. Taking into consideration, the aforesaid material aspects of the case and the fact that the incident had taken place in the year 2006

considering that the applicant has already remained in jail for about two months, the revision petition is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for period about two months, his sentence is reduced to the period already undergone by him. The applicant is on bail, his bail bond shall stand discharged.

8. Revision thus partly allowed to the extent indicated herein above.

Sd/-

(Rajani Dubey)
JUDGE