

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 740 of 2008

Trinath Rathiya, Aged about 33 years, S/o. Shri Laxman Rathiya
@ Vaishna Rathiya, R/o. Village Regdha, Thana Kotwali, Tahsil
and District Raigarh (C.G.)

---- Applicant

Versus

The State of Chhattisgarh through District Magistrate, Raigarh
(C.G.)

---- Respondent

For Applicant : Mr. Roop Naik, Advocate.

For Respondent : Mr. Raghvendra Verma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

24.04.2019

Certificate dated 06.05.2018 issued by Chhattisgarh Government shows that the accused/applicant died on 06.05.2018. Though the accused/applicant died during the pendency of this revision yet in the light of the order passed by the Hon'ble Apex Court in the matter of **Pranab Kumar Mitra vs. State of WB** reported in **AIR 1959 SC 144**, this Court proceeds to decide this case on its merits.

2. Facts of the case, in brief, are that on 18.02.2005 complainant Bindu Prasad with his cousin Gulapi, wife Punimati,

sons Damrudhar and Noharsai were going to village Regdha in a tractor trolley for watching Ramsatta Ashtaprahri programme. The applicant was driving the offending vehicle with rash and negligent manner as a result of which the deceased fell down from the tractor and received injuries on her chest and left hand died on the spot. After registration of offence vide FIR (Ex P-1) and completion of investigation the charge sheet was filed against the accused/applicant.

3. Learned Magistrate having perused the material before it convicted the accused/applicant under Sections 279, 304-A IPC, 3/181 and 146/196 of the Motor Vehicle Act and sentenced him to undergo RI for 6 months and to pay fine of Rs. 500/- u/s. 304-A IPC, to pay fine of Rs. 200/- under Section 3/181 of the MV Act and to pay fine of Rs. 500/- under Section 3/181 of the MV Act. In appeal the sentences of the above mentioned conviction has been affirmed. Hence, this revision.

4. Learned counsel for the applicant submits that the order impugned being contrary to the evidence on record is liable to be set aside. Counsel for the respondent, however, supports the same.

5. The evidence of PW-1 and other co-passengers examined as PW-2, PW-3 and PW-4, clearly goes to show that at the relevant time the accused applicant was driving the offending vehicle with rash and negligent manner. Over all impact of the

accident was unfortunate and untimely death of the deceased. Almost all the witnesses have stated that even after being warned by them the accused was not controlled the speed of the vehicle. Doctor (PW-12) who conducted the postmortem examination on the body of the deceased has clearly stated that he noticed numbers of injuries including fracture and the brain material of the deceased had come out. Thus the rashness and negligence on the part of the accused in driving the offending vehicle carrying numbers of passengers on board at an uncontrollably high speed is fully established involving the death of an innocent passenger. No error in noticeable in the judgment impugned as far as conviction part thereof is concerned which is accordingly maintained.

6. In aforesaid view of the mater the revision is held to be without any substance and is hereby dismissed as such.

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh