

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 502 of 2005**

- Sonu Ram, S/o Shri Fagwa Sahu, aged about 29 years, Occupation – Driver, R/o. Shardpara, Camp – 2 Bhilai, Distt. - Durg (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh, through District Magistrate, Rajnandgaon, District- Rajnandgaon (C.G.)

---- Respondent

For Appellant	:	Shri Awadh Tripathi
For Respondent/State	:	Shri Anand Verma, Dy.G.A.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****01.03.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 18/11/2005 passed by Additional Sessions Judge, Rajnandgaon, in Cr. Appeal No. 54/2005 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Ambagarh Chowki, District Rajnandgaon, vide its judgment dated 21/06/2005 in Cr. Case No. 312/96 for the offence under Section 279, 337, 338 and 304-A IPC and sentenced him to undergo RI for six months and to pay fine of Rs. 500/-, RI for one year and to pay fine of Rs. 1,000/- and RI for one year and to pay fine of Rs. 1,000/- respectively plus default stipulation.

2. Brief facts of the case are that the appellant/accused is a driver of the Vehicle Metadore 407 bearing registration No. MP-24 C-2265, which was met with an accident and the vehicle was turned turtled on 20.04.1996 at about 12.30 PM, when the injured and deceased were

going to attend the Election duty. Due to accident many persons were injured and Ramashankar Choubey died. The FIR was lodged against accused under Section 279, 337, 338 and 304-A of IPC. After completion of investigation charge-sheet was filed and charges were framed against accused/applicant under Section 279, 337, 338 and 304-A of IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 26 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 21/06/2005, learned Magistrate has convicted the accused/applicant for the offence under Section 337 for RI for six months and to pay fine of Rs. 500/-, under Section 338 RI for one year and to pay fine of Rs 1,000/- and under Section 304-A RI for one year and to pay fine of Rs. 1,000/- 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 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 1996, and thereby more than 22 years have rolled by since then, he is aged more than 50 years, the applicant has already remained in jail for more than three 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.

8. Having gone through the material on record and the evidence of the witnesses including Vinod Kumar (PW-1), Chandra Prakash (PW-2), Chandulal (PW-3), Sesh Narayan Das (PW-4), B.S. Netam (PW-5), Vipin Sakalle (PW-6), Jeevan Lal (PW-7), Omprakash Devangan (PW-8), Dhansingh Sahu (PW-9), Rainuram Mahar (PW-10), Chandra Dev (PW-11) who all were injured and Dr. R.S. Gupta (PW-12) Dr. Vijay B.Dhok (PW-13) established the guilt 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 Section 279, 337, 338 and 304-A.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 1996, after that the appellant had already remained in jail for more than three months and no useful purpose would be served in again sending him to jail and it would be appropriate in the interest of justice to sentence him to the period already undergone by him.

10. In view of above consideration, the revision is partly allowed. Appellant is reported to have remained in jail for a period of three months. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him.

Sd/-
(Rajani Dubey)
JUDGE