

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 784 of 2008

Naresh Kumar S/o. Sukhiram Sahu, Aged 30 years, R/o. Village
Latabod, Tahsil and Police Station Balod, District Durg (C.G.)

----- **Applicant**

Versus

State of Chhattisgarh, Through Police Station Dalli Rajhara,
District Durg (C.G.)

---- **Respondent**

For Applicant : Mrs. Hamida Siddiqui, Advocate.

For Respondent : Mr. Aman Kesharwani, Panel lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 05.04.2019

On 10.08.2005 FIR (Ex.P-1) was lodged by Sonu (PW-1) in the Police Station Rajhara wherein it is alleged that on 08.08.2005 at about 5.30 PM, Jhaduram (deceased) was coming on his bicycle, when he reached near Pathratola, at that time the applicant was driving motorcycle bearing registration No. CG-07 LA 5597 with rash and negligent manner and hit the bicycle behind the back, as a result of which Jhaduram sustained grievous injuries. Jhaduram was admitted in the hospital where he died. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

2. Learned Magistrate having perused the material before it convicted the accused/applicant under Section 304-A IPC and sentenced him to undergo RI for 8 months and to pay fine of Rs. 1000/- with default stipulation. In appeal the sentence of the above mentioned conviction has been affirmed. Hence, this revision.

3. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

6. From the statement of the (PW-1), (PW-2), (PW-3),(PW-4), (PW-5),(PW-6) and (PW-7), it is proved that the applicant was driving the motorcycle bearing registration No. CG-07 LA 5597 in a rash and negligent manner. It is also established from the statements of those witnesses that on account of the rash and negligent act of the accused/applicant, deceased died. It is true that the applicant was the first offender and he acted in a

negligent manner. It appears that the applicant does not challenge his conviction directed against him. Also the concurrent finding given by both the Courts below for the conviction which depends upon the facts cannot be interfered without any substantial reason, and therefore there is no need to make any interference in the conviction directed by both the Courts below. It is hereby maintained.

7. However, looking to the fact that the incident had taken place in the year 2005 and thereby more than 14 years have passed by, and further that the accused/applicant has already remained inside the jail about 20 days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone, so that his already settled family life is not landed to crises. In lieu of this, the applicant however, would be required to pay an enhanced sum of fine of Rs. 10,000/- from that of Rs. 1000/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of two months from today. Order accordingly.

8. With the above, the revision stands allowed in part.

Sd/-

(Vimla Singh Kapoor)

JUDGE