

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 580 of 2007

1. Awadh Ram S/o Gend Singh, aged about 65 years,
2. Pawan Kumar S/o. Awadh Ram, aged about 32 years,
Both R/o. Village Tekapara, Head P.S. Dhamdha, Chowki
Bori Dhamdha, District Durg, CG.

---- Applicants

Versus

State of Chhattisgarh through P.S. Dhamdha, CG.

---- Respondent

For Applicants	: Shri Vivek Sharma, Advocate
For State/Respondent	: Shri Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

11/02/2019

Accused/applicants in this case happen to be the father and son. Deceased Siyaram who had taken the land of the accused/applicants on lease is said to have died on account of the injuries received by him after coming into the contact of live electric wire while working in the field of acquitted accused Santu where the fencing was erected. This incident came to be known after the wife of the deceased went to the field to see her husband why he did not return home in time and it is by her efforts the deceased was put apart from the electric wire with the help of a club. On the basis of Merg and FIR (both un-exhibited), the offence under Section 304-A IPC was registered against the accused/applicants and after investigation, *challan* was filed under that section.

2. Trial Court, on appreciation of the evidence on record held the accused/applicants guilty u/s 304-A IPC and sentenced each of them to

undergo RI for three months with fine of Rs. 200/- plus default stipulation vide judgment dated 17.04.2007 passed in Criminal Case No. 539/2001. Lower Appellate Court by judgment impugned dated 26.10.2007 passed in Criminal Appeal No. 62/2007 also affirmed the findings of the trial Court. Hence this revision.

3. Counsel for the applicants submits that both the Courts below have not taken care of the evidence of the witnesses while convicting and sentencing the accused/applicants as described above and by ignoring the material points necessary for consideration, they have arrived at the abrupt conclusion which is under challenge in this revision petition.

4. State counsel however, supports the judgment impugned.

5. Almost all the witnesses have stated that the deceased died in the field of Santu after coming into contact of live electric wire. Lineman (PW-18) has also stated that accused/applicant Awadhram had taken an illegal connection from the mainline by way of committing theft of electricity. PW-5 though has stated that illegal connection was taken by accused Santu but in the cross examination he has clarified that it was not Santu but Pawan who had done that. He has then further clarified that the illegal electric connection which ultimately got twitched with the fencing erected in the field was taken by both the accused/applicants. Wife of the deceased (PW-11) has also stated that she saw her husband lying in the field and it is she who set his body apart from the electric wire. Doctor (PW-19) conducting postmortem has also noticed several injuries including the burns vide Ex. P-10. PW-18 has also supported case of the prosecution stating that the deceased was lying in the field of accused/applicant Awadhram and illegal electric

connection was taken by him for operating the bore-well machine. Thus from the over all evidence it is apparent that the deceased died on account of rash and negligent act of the accused/applicants who had taken an illegal connection from the mainline in order to operate their bore-well machine and being so, both the Courts below have been fully justified in holding them guilty under Section 304-A IPC. No illegality in the finding of conviction is visible and, therefore, same is maintained.

6. However, as regards sentence, keeping in mind the incident being quite old and that the applicants have already remained in jail for about 01 month and 25 days, this Court is of the opinion that interest of justice would be served if the jail sentence imposed on them is reduced to the period already undergone. Order accordingly. However, in lieu thereof the fine of Rs. 200/- as imposed by the courts below is enhanced to Rs. 3,000/- each to be deposited by them in the trial Court within a period of three months from the date of receipt of copy of this order. This order will lose its efficacy if the accused/applicants fail to make such deposit within the time mentioned above.

7. With the above observations and modifications in the order impugned, the revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge