

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 388 of 2011

Deepak Kumar, S/o Janpad Khalko, aged about 33 years, R/o Village –
Pasan, District – Bilaspur, C.G.

---- Applicant

Versus

State of Chhattisgarh, Through S.H.O. - Gaurella, District – Bilaspur, C.G.

---- Respondent

For Applicant	:	Shri Hemant Gupta, Adv.
For Respondent/State	:	Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey
Order On Board

01.07.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 12.07.2011 passed by the learned Additional Sessions Judge, Pendra Road, District – Bilaspur, C.G. in Cr. Appeal No. 01/2011, whereby the learned appellate Court below has confirmed the conviction and sentence of the applicant as awarded by the learned Judicial Magistrate First Class, Pendra Road, District – Bilaspur, vide its judgment dated 08.12.2010 in Cr. Case No. 160/2008 for the offence under Section 304 (A) of the IPC and sentenced him to undergo RI for 6 months.

2. Brief facts of the case are that on 15.01.2008, at about 11-12 a.m., the complainant Naval Singh along with his mother Kailasiya Bai and other relatives were coming towards Gaurela railway station from Amarkantak. When they reached near Village Chuktipani Mohalla Bajardand, the un-numbered jeep, which was driven by

accused/applicant in a rash and negligent manner, came and dashed the Kailasiya Bai, due to which, she died on the spot. The FIR was lodged by Naval Singh in the Police Station – Gaurela. After completion of investigation, charge-sheet was filed and charges were framed against the accused/applicant under Section 304 A of the IPC by the trial Court.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 07 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 innocence and false implication in the case.

4. After hearing the parties, vide judgment of conviction and order of sentence dated 08.12.2010, learned Judicial Magistrate First Class has convicted the accused/applicant under Section 304 A of the IPC and sentenced him to undergo RI for 6 months. 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 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 2008 and thereby about 11 years have rolled by since then, he is aged about 50 years, the applicant has already remained in jail for

about 10 days and no useful purpose would be served in again sending him to jail. Therefore, it would be appropriate in the interest of justice if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses including Naval Singh (PW-1), Brijlal (PW-2), Shobhnath (PW-4), Dr. N.L. Marco (PW-5) and Chandrakant Tiwari (PW-7), established the involvement 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 304 A of the IPC, being so it is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2008 and further that the applicant has already remained in jail for about 10 days, no useful purpose would be served in again sending him to jail, at this stage, the ends of justice would be served if he may be sentenced to the period already undergone by him with a direction to pay additional fine of Rs.5000/-.

10. In view of the above, the revision is partly allowed. While maintaining the conviction of the applicant, his jail sentence is reduced to the period already undergone by him. However, he is directed to pay an additional fine of Rs.5000/- within six months from today, failing which he shall have to undergo RI for two months. The fine amount so deposited by the applicant before the Trial Court be paid to the legal heirs of the deceased Kailasiya Bai, after due

verification by the trial Court. The applicant is reported to be on bail.
His bail bond shall stand discharge.

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Sd/-
(Rajani Dubey)
Judge