

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 478 of 2011**

- Samaru Ram S/o Jethu Ram Dewangan aged about 30 years, R/o Village Pitaiban, Tahana Rajim, District Raipur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : Police Station Arang, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. K. K. Dewangan, Advocate.
For Respondent/State	:	Mr. Akhtar Hussain, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****23/08/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 12.08.2011 passed by the learned 3rd Additional Sessions Judge, Raipur, in Cr. Appeal No. 85/2011 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Raipur, vide its judgment dated 28.01.2011 in Criminal Case No. 437/2010 for the offence punishable under Sections 279, 337(Twice), 304-A of IPC and sentenced him to undergo R.I. for two months with fine of Rs. 500/-, R.I. for two-two months with fine of Rs. 300/- - 300/- and R.I. for six months with fine of Rs. 1,000/- respectively, plus default stipulation.

2. Brief facts of the case are that complainant Sukalu Ram has lodged complaint at Thanan Arang District Raipur that on 06.03.2002 at about 2.30 am. he along with others were going in Barat Procession of Hori Lal Dewangan by vehicle bearing Registration No. C.I.T. 8155, to village Parabandh-Sarsiwa. Near Canal at village Gaurbhata the applicant drove the jeep in negligent manner and turtle the vehicle. Consequently, Khilwan, Maniram, Puranik, Horilal, Sukhwantin and Amru sustained injuries. Khilawan died during treatment at hospital. Thereafter, F.I.R. was lodged against applicant. After completion of investigation, charge sheet was filed and

charges were framed against accused/applicant under Sections 279, 337(Twice) and 304-A of the IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 8 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 28.01.2011, learned Judicial Magistrate has convicted and sentenced the accused/applicant for the offence punishable under Sections 279, 337(Twice), 304-A of IPC and sentenced him to undergo R.I. for two months with fine of Rs. 500/-, R.I. for two-two months with fine of Rs. 300/- -300/- and R.I. for six months with fine of Rs. 1,000/- respectively, plus default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the appellant. Hence, the present revision.

5. Learned 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 2002, and thereby more than 17 years have rolled by since then. The applicant has already remained in jail for more than 15 days, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

6. Learned counsel for the State has no objection to this proposition.

7. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the Maniram (PW-1), Sukalu Ram (PW-2), Puranik (PW-3), Sukhvantin (PW-4), Sohan Lal (PW-5), Dr. Suryakant Tiwari (PW-6) and P.S. Netam (PW-8), established the involvement of the accused/applicant in the crime in question stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Sections 279, 337(Twice), 304-A of IPC

being so they are hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2002, and further that the applicant had already remained in jail for more than 15 days, therefore, his sentence is liable to be reduced to the period already undergone by him.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant, he is sentenced to the period already undergone by him. The applicant is on bail. His bail bond will stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**