

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 706 of 2006

Bhagwati Ram Rathia S/o. Kirtiram Rathia, Aged about 35 years,
R/o. Village Chharratnagar, Police Station Gharghoda, District
Raigarh (C.G.) ----- **Applicant**

Versus

State of Chhattisgarh, Through District Magistrate, Raigarh
District Raigarh (C.G.) ----- **Respondent**

For Applicant : Smt. Indira Tripathi, Advocate.
For Respondent : Shri Raghvendra Verma, P. L.

Hon'ble Smt. Justice Vimla Singh Kapoor

28.03.2019

By the judgment under challenge passed on 20.11.2006 by Additional Sessions Judge (FTC) Raigarh, in Criminal Appeal No. 59 of 2006, affirming the judgment dated 10.07.2006 passed by Judicial Magistrate First Class Gharghoda, in Criminal Case No. 691/2003, convicting the accused/applicant under Sections 304(A) and 337 IPC and sentencing him to undergo RI for 6 months with fine of Rs. 3000/- u/s. 304(A) IPC and imprisonment till rising of the Court with fine of Rs. 500/-(4 times) u/s 337 IPC with default stipulation.

2. Facts of the case, in short, are that FIR (Ex.P-1) was lodged by the Complainant (PW-1) wherein it is alleged that on the date of incident i.e. on 05.12.2003 his grand-son (Pawn) along with

other children were sitting on the boundary wall. At about 3.00 PM, the applicant was driving a tractor bearing registration No. CG 13-A 0614 with rash and negligent manner and dashed the boundary wall in which the children were sitting, as a result of which (Pawan) was sustained grievous injuries on his body and died on the way. Ku. Manmet, Ku. Rambai, Ku. Omkumari and Ku. Santara were also received injured from the said accident. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. Learned Magistrate having perused the material before it convicted the accused/applicant under Section 304-A and 337 IPC and sentenced him as above, which on appeal has been affirmed by the judgment impugned. Hence, this revision.

4. 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.

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

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

7. From the statement of the (PW-1) to (PW-8) and PW-11, PW-14 and PW-18, it is proved that the applicant while driving the tractor bearing registration No. CG 13-A 0614 with rash and negligent manner and dashed the boundary wall in which the children were sitting, as a result of which (Pawan) sustained grievous injuries on his body and died on the way. Ku. Manmet, Ku. Rambai, Ku. Omkumari and Ku. Santara were also sustained injured on their body. It is also established from the statements of these witnesses that on account of rash and negligent act of the accused/applicant the grand son of the complainant died on the way. The doctor (PW-16) who conducted the postmortem of the dead body under Ex.P-11 and also examined the other injured has also supported the case of the prosecution under Ex.P-12 to Ex.P-15 stating the injuries leading to the out come of the accident. Therefore, the findings of conviction recorded by both the Courts below appear to be fully justified. It is hereby maintained.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 2003, that the accused/applicant has already remained in jail for a period of about 9 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh