

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 192 of 2005

Judgement reserved on 07.01.2019

Judgement delivered on 15.01.2019

Saheb Das, Aged 40 years, S/o. Mohatiya Satnami, R/o. Village Dhaurabhata, P.S. Chakarbhata, Tahsil and District Bilaspur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Police Station Chakarbhata, District Bilaspur (C.G.)

---- Respondent

For Applicant : Ms. Sofia Khan, Advocate.
For Respondent : Ms. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

By the judgment under challenge passed on 28.04.2005 by Additional Sessions Judge Bilaspur, in Criminal Appeal No. 22 of 2005, the findings recorded by the learned Judicial Magistrate First Class Bilaspur, convicting the accused/applicant under Sections 304-A IPC and sentencing him to undergo RI for one year and to pay fine of Rs. 1000/- have been affirmed.

2. Facts of the case, in short, are that on 26.09.2002 about 7 PM, Bisahu @ Mangu Gond was going his house Uslapur on the bicycle, Lalit and Heeralal were also on the same way, at the same time, the applicant was driving a Dumper bearing

registration No. C.G. 10-ZB-1927 with rash and negligence manner and hit Bisahu Gond, as a result of which he fell down on the ground and died on the spot. 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 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-6) & (PW-5), it is unflinchingly proved that the applicant while driving the Dumper bearing registration No. C.G. 10-ZB-1927 with rash and negligence manner and hit Bisahu Gond, who was going to Uslapur on the bicycle. It is also established from the statements of these witnesses that on account of the rash and negligent act of the

accused/applicant, Bisahu Gond, fell down on the ground and died on the spot. 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 2002, that the accused/applicant has already remained in jail for a period of 13 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. In lieu of this, the applicant however, would be required to pay an enhanced sum of fine of Rs. 5000/- from that of Rs. 1000/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of three months from today. Order accordingly.

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

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh