

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 05 of 2013

Umesh Sahu, S/o Netram Sahu, Aged About 26 Years, R/o Lakhanpur, P.S.
Ranchirai, Dist. Balod, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh, Through The District Magistrate, Durg, Chhattisgarh

---- Respondent

For Applicant	:	Shri Atanu Ghosh, Adv.
For Respondent/State	:	Shri I. Lakra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

24.07.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 14.12.2012 passed by the First Additional Sessions Judge, Durg, C.G. in Cr. Appeal No.217/2012, whereby the learned appellate Court below has confirmed the conviction and sentence of the applicant as awarded by the learned Judicial Magistrate First Class, Gunderdehi, District – Durg, vide its judgment dated 10.09.2012 in Cr. Case No. 210/2010 for the offence under Section 304(A) of the IPC and sentenced him to undergo RI for three months and to pay fine of Rs. 500/-, with default stipulation.

2. Brief facts of the case are that complainant Sheikh Nabi has lodged a report in the police station, stating in it, that on 08.06.2010, when he was going towards Kalangpur, at that time, the applicant who was driving the dumper bearing registration number CG 07/ C-4873 in

rash and negligent manner, dashed the deceased, due to which he sustained grievous injuries and was shifted to the hospital, where he died. 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 08 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 10.09.2012, learned Judicial Magistrate First Class has convicted the accused/applicant under Section 304(A) of the IPC and sentenced him to undergo RI for three months and to pay fine of Rs.500/-, with default stipulation. 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 2010 and thereby about 09 years have rolled by since then, he is aged about 36 years, the applicant has already remained in jail for about 20 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 Sheikh Nabi (PW-1), Jhumuk Lal (PW-2), Lokesh (PW-3), Dr. Renuka Prasanna (PW-6), Hemant Sahu (PW-7) and C.S. Sahu (PW-8) establishes 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 2010 and further that the applicant has already remained in jail for about 20 days, no useful purpose would be served in again sending him to jail at this stage and the ends of justice would be served if he is 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.5,000/- within six months from today, failing which he shall have to undergo RI for two months. The fine amount of (Rs.5000/-) so deposited by the applicant before the trial Court be paid to the parents of the deceased, after due verification by the trial Court. The applicant is reported to be on bail. His bail bonds stand discharged.

Sd/-
(Rajani Dubey)
Judge