

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 454 of 2013

- Narandra Kumar Sahu S/o Sarju Ram Sahu Aged About 27 Years R/o Nayapara Rudri Road, Dhamtari, P.S. Dhamtari Civil And Rev. Distt. Dhamtari, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, S/o Through - SHO, P.S. Dhamtari, Distt. Dhamtari, Chhattisgarh

---- Respondent

For Applicant	: Shri B.P. Singh, Advocate
For Respondent/State	: Shri Priyank Rathi, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

10/07/2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 15.07.2012, passed by the learned Sessions Judge, Dhamtari in Cr. Appeal No. 82/2012, 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, Dhamtari, vide its judgment dated 30.03.2012 in Cr. Case No.235/2011 for the offence under Sections 279 and 338 of the IPC and sentenced him to pay fine of Rs.1,000/- and to undergo RI for six months with fine of Rs. 1,000/-, Section 146/196 of the Motor Vehicle Act and sentenced him to pay fine of Rs.500/-, plus default stipulation respectively.

2. Brief facts of the case are that on 03.11.2011, at about 8 p.m., when the complainant Kamleshwar Sahu was going with one Kuleshwar Sahu in his bicycle. When they both reached near new bus stand Dhamtari, the accused/applicant, driving his motorcycle bearing registration number CG 07 LP 8208, in a rash and negligent manner dashed the bicycle of the complainant, due to which, complainant and Kuleshwar Sahu fell down from the bicycle and Kamleshwar Sahu, sustained grievous injuries over his both legs and on the face. The report was lodged in the Police Station Dhamtari. After completion of investigation, charge-sheet was filed and charges were framed against the accused/applicant under Sections 279, 337 and 338 of the IPC and Section 146/196 of the Motor Vehicle Act. After filing of the charge-sheet charges were framed against the accused/applicant under Section 279 and 338 of the IPC and 146/196 of the Motor Vehicle Act.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 7 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 his innocence and false implication in the case and examined one witness in defence to substantiate its case.

4. After hearing the parties, vide impugned judgment and order dated 30.03.2012, learned Magistrate has convicted the accused/applicant for the offence under Section 279 and 338 of the IPC and 146/196 of the Motor Vehicle Act. 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 learned 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 the revision on merit and would confine his argument to the sentence part thereof only. According to him, the incident took place in the year 2011 and thereby more than 08 years have rolled on since then. The applicant has already remained in jail for about 10 days, no useful purpose would be served in again sending him in jail as he is 40 years of age, therefore, it would be in the interest of justice, if the sentence imposed upon him may be reduced to the period already undergone by the applicant.

7. State counsel has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses including Kamleshwar Sahu (PW-1) Dr. Satish Rathi (PW-2), Dr. Snehal Bansod (PW-3), Gopichand Sahu (PW-4), Kuleshwar Sahu (PW-5) and Ramkrishna Sahu (PW-6), 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 Sections under Section 279 and 338 of the IPC and 146/196 of the Motor Vehicle Act, being so they are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2011 and further that the applicant has already remained in jail for about more than 10 days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of more than 10 days, his sentence is reduced to the period already undergone by him.

10. The applicant is on bail. His bail bond shall stand discharged.
11. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
Judge

yasmin