

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 468 of 2013**

- Shiv Kumar Tiwari S/o Lakhan Lal Tiwari, aged about 63 years, R/o Village Akhrar, P.S. Lormi, Tahsil Lormi, civil District-Bilaspur, Revenue District-Mungeli, District-Mungeli, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : District Magistrate, Bilaspur, District-Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	:	Ms. Upasana Mehta, Advocate.
For Respondent/State	:	Mr. Akhtar Hussain, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****17/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 22.07.2013 passed by the learned 6th Additional Sessions Judge, Bilaspur, District-Bilaspur, in Cr. Appeal No. 25/2013 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, Bilaspur, District-Bilaspur, vide its judgment dated 22/12/2012 in Criminal Case No. 204/2012 for the offence punishable under Section 304(A) of IPC and sentenced him to undergo S.I. for 7 months & fine of Rs. 2,000/-, plus default stipulation.

2. Brief facts of the case are that on 20.12.2009 complainant Vijay Sharma was going towards house by his car and thereafter the driver of the offending bus bearing registration No. CG-10-A-9022 driving the bus in rash and negligent manner with the wrong side and dashed the

motorcycle. Thereafter, the driver of the offending vehicle ran away from the spot. When the complainant reached near the incident place then he saw that the injured person was his neighbour Pavan Kumar Sharma and blood oozing from his mouth and he was become unconscious due to injury sustained by him. Thereafter, the injured was taken to the hospital and informed to the family members and dehati nalsi was registered by the police. After that during treatment the victim died.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 7 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 22.12.2012, learned Judicial Magistrate First Class has convicted and sentenced the accused/applicant for the offence punishable under Section 304(A) of IPC and sentenced him to undergo S.I. for 7 months & fine of Rs. 2,000/-, 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 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 2009, and thereby more than 10 years have rolled by since then. The applicant is a senior citizen and has already remained in jail for more than 7 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.

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

8. Having gone through the material on record and the evidence of the witnesses Vijay Sharma (PW-1), Suresh Prasad Sharma (PW-2), Ravi Kumar Yadav (PW-3), Ramesh Singh (PW-4), Anurag Sharma (PW-5), Dr. Vijay Kumar Mishra (PW-6) and Sushil Kumar Banchhor (PW-7), 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 it is hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2009, and further that the applicant had already remained in jail for more than 7 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