

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 483 of 2013**

- Janardan Mishra @ Pappu, S/o Ramji Mishra, Aged About 29 Years, R/o Village Lotamod, P.S. Bagicha, Civil & Rev. District- Jashpur C.G.

---- Applicant

Versus

- State of Chhattisgarh, S/o Through - The District Magistrate, Jashpur, Civil & Rev. District- Jashpur C.G.

---- Respondent

For Applicant	:	Mr. J. K. Saxena, Advocate
For Respondent/State	:	Ms. Akshara Amit, P.L.

Hon'ble Smt. Justice Rajani DubeyOrder On Board**26.09.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 23/07/2013 passed by Sessions Judge, in Cr. Appeal No. 11/2013 whereby, appellate Court below while acquitting the applicant of the charge under Section 3/181 of Motor Vehicles Act has confirmed the conviction of the applicant as awarded by the learned Judicial Magistrate First Class, Bagicha, District Judge Jashpur vide its judgment dated 30.01.2012 in Criminal Case No. 476/2010 for the offence under Section 304 A of IPC sentencing him to undergo RI for one year with fine of Rs. 500/-.

2. Brief facts of the case are that on 10.10.2010, complainant Sanjay Tirkey lodged a report at Police Station, Bagicha, inter-alia stating that on the very day, the applicant, who has consumed liquor, after filling petrol of Rs. 350/- from Asamika Petrol Pump, went to Bagicha on his motorcycle and dashed to Sabina Ekka in rash and negligent manner near Bhadiya Mission Chowk, due to which, Sabina sustained grievous injury and died. On this report, offence has been registered against the applicant. After completion of investigation,

charge-sheet was filed and charges were framed against the applicant under Section 304 (A) of IPC & Section 3/181 of Motor Vehicles Act by the trial Court.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 14 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge 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 30.01.2012, learned Judicial Magistrate has convicted and sentenced the applicant for the offence under Section 304 (A) of IPC and sentenced him to undergo RI for one year and fine of Rs. 500/- and for offence under Section 3/181 of Motor Vehicles Act sentenced him for fine of Rs. 500/- with default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court acquitted him of the offence under Section 3/181 of Motor Vehicles Act and affirmed the conviction and sentence of the applicant under Section 304 (A) of IPC. 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 so 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 more than 10 years have rolled by since then. He is aged about 50 years. The applicant has already remained in jail for more than 72 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 Jalariyus Ekka (PW-1), Sanjay Tirki (PW-2), Ku. Sukrita Ekka (PW-3), Sunita Ekka (PW-4), Saroj Kujur (PW-5), Nitya Ekka (PW-6), Neel Kusum Bakhla (PW-8), Hemant Yadav (PW-9), Birwal Gudwa (PW-11), Ujin Minz (PW-12), P. R. Bhagat (PW-13) and Dr. C. D. Bakhla (PW-14), established the involvement of the accused/applicant in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by appellate Court below as regards conviction of the applicant under Section 304 (A) of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2010, and further that the applicant had already remained in jail for more than 72 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 reported to be on bail. His bail bonds shall stand discharged.

11. The criminal revision thus allowed in part.

Sd/-
(Rajani Dubey)
JUDGE