

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1106 of 2018

Sarju Prasad, S/o Shri Manohar Singh Netam, aged about 45 years, R/o Village Sagaunadih, P.S. Pandariya, District Kabirdham, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through the District Magistrate, Bilaspur, Chhattisgarh

--- Respondent

For Applicant	:	Shri A.R.K. Rao, Advocate
For State/Respondent	:	Ms. Smriti Shrivastava, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

20.3.2019

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 18.9.2018 (wrongly mentioned as 18.9.2019) passed by the 1st Additional Sessions Judge, Bilaspur in Criminal Appeal No.7 of 2018 arising out of the judgment dated 20.12.2017 passed by the Judicial Magistrate First Class, Kota in Criminal Case No.149 of 2007 convicting the accused/Applicant under Section 304A of the Indian Penal Code and sentencing him with rigorous imprisonment for 1 year and to pay fine of Rs.2,000/- with default stipulation.
2. Case of the prosecution, in brief, is that on 10.9.2000 at the time of *Ganesh Visarjan*, children of the village and other villagers took out a procession and when the procession was going to reach near the canal of Village Lormi, a truck was coming from towards Village Lormi. They stopped the truck. Thereafter, a bus bearing registration No.MP 26 C 5655 being driven by the present

Applicant was also coming from towards Village Lormi. They tried to stop the bus also, but, allegedly, the Applicant, who was driving the bus rashly and negligently, dashed the procession as a result of which 4 persons, namely, Komal, Raju, Hemant and Pramod died at the spot and other persons also sustained injuries. Matter was reported to the police. On completion of the investigation, a charge-sheet was filed against the accused/Applicant before the Judicial Magistrate First Class for an offence punishable under Sections 304, 325 and 323 of the Indian Penal Code. The Trial Court framed charges against the Applicant under Sections 304A, 338 and 337 of the Indian Penal Code. After trial, the Trial Court, vide judgment dated 20.12.2017, acquitted the Applicant of the charges framed under Sections 338 and 337 of the Indian Penal Code, but convicted and sentenced him for the offence punishable under Section 304A of the Indian Penal Code as mentioned in the first paragraph of this order. In appeal, the Appellate Court, affirmed the judgment of conviction and sentence passed by the Trial Court. Hence, this revision by the accused/Applicant.

3. Learned Counsel appearing for the Applicant/accused submits that he does not press this revision on merits and confines his argument to the sentence part only. He further submits that the incident is of the year 2000. The Applicant has no criminal antecedent. He is facing the *lis* for about 18 years. He further submits that out of the total jail sentence of 1 year, the Applicant has already undergone a period of more than 6 months. Therefore, the Applicant may be sentenced with the period already undergone by him.

4. On the contrary, Learned Counsel appearing for the State/Respondent opposes the revision and supports the impugned judgment.
5. It is not in dispute that the incident relates to the year 2000 and the Applicant is facing the *lis* for the last 18 years. He has no criminal antecedent. Out of the total jail sentence of 1 year, he has already undergone a period of more than 6 months.
6. Considering the above facts and circumstances of the case, I am of the considered opinion that the ends of justice would be served if, while upholding the finding of conviction, the jail sentence awarded to the Applicant is reduced to the period already undergone by him and the sentence of fine is affirmed. Ordered accordingly.
7. Consequently, the revision is allowed in part to the extent indicated above.
8. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge