

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1276 of 2019

- Bal Kumar Mahto S/o Sukhnath Mahto, Aged About 41 Years, R/o Village Fatehpur Thana Jashpur Nagar, District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through District Magistrate Jashpur Police Station Jashpur District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh

----Respondent

For Applicant – Shri Sanjay Agrawal, Advocate.

For State/respondent – Shri Neeraj Pradhan, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-11-2019

1. This criminal revision has been filed challenging the propriety of the sentence imposed upon the applicant/petitioner. The petitioner was prosecuted for offences under Section 279 and 338 of the IPC along with Section 185 of the Motor Vehicles Act. The trial Court has in Criminal Case No. 366/2018 by judgment dated 10-05-2019 convicted the applicant for offence under Section 279 of the IPC and sentenced him with fine sentence of Rs.500/- only along with default stipulation, the applicant was also convicted under Section 338 of the IPC and sentenced with R.I. for 6 months. This judgment was challenged in Criminal Appeal No.15/2019 before the Court of Sessions Judge Jashpur. The Sessions Judge has by his judgment dated 09-09-2019 upheld the conviction and sentence and dismissed the appeal filed by the applicant.

2. It is submitted that the applicant is auto-rickshaw driver and he has no criminal antecedent, therefore, the sentence of imprisonment for offence under Section 338 of the IPC is too harsh for the reason that it is going to affect his

livelihood and the maintenance of his dependents, whereas, the offence under Section 338 of the IPC is punishable with imprisonment or with fine, therefore, the trial Court and the appellate Court should have taken a liberal approach in sentencing the applicant with fine only.

3. Learned counsel for the State opposes the petition and the submission made in this respect. It is submitted that the prosecution has very clearly proved that because of rash and negligent act of the applicant the victim in this case has suffered grievous injury, therefore, the sentence imposed is justified.

4. Heard learned counsel for the parties and perused the judgment impugned.

5. On perusal of the impugned judgment and also considering the facts and circumstances of this case, I am of this opinion that for the reason that this applicant does not have any criminal antecedent, that he belongs to economically weaker section of the society and driving auto-rickshaw is his livelihood, further, the applicant is in jail since 03-10-2019, therefore, the sentence imposed upon the applicant for offence under Section 338 of the IPC appears to be excessive and inappropriate, I feel inclined to allow this revision petition for the purposes of modifying the sentence imposed upon the applicant.

6. Consequently, the revision is allowed accordingly and the sentence imposed upon the applicant for offence under Section 338 of the IPC of six months R.I. is now reduced to R.I. of two months along with fine of Rs.1000/-. In default of payment of this fine he will be required to undergo further R.I. for one month. The sentence of fine for his conviction under Section 279 of the IPC is maintained as it is.

7. The petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge