

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 398 of 2006

- Sunil Kumar Yadav S/o Shankar Lal, Aged About 26 Years, R/o Chandaniyapara, Jajgir, Police Station and District Janjgir, Chhattisgarh

---- Petitioner/Applicant

Versus

- State of Chhattisgarh Through – Police Chowki – Urga Police Station – Korba, Tahsil and District – Korba, Chhattisgarh

----Respondent

For Applicant/Petitioner – Ms. N.K.Kashyap, Advocate.

For State/Respondent – Mr. Sudeep Verma, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

20-05-2020

1. This criminal revision is brought against the judgment dated 28-06-2006 passed in Criminal Appeal No.02/2006 by which the applicant/petitioner has been convicted for offence under Section 337 of the IPC sentenced with R.I. for three months and fine of Rs.100/- only.

2. The case against the applicant is this, that on 24-11-2002 the applicant/petitioner was driving a jeep in which the victims Rimpi Nag and others were passengers. As alleged, the applicant by rash and negligent act of driving the jeep committed an accident because of which Rimpi Nag and others suffers injuries simple as well as grievous. The police registered offence under Section 279, 337 of the IPC against the applicant and charge sheet was filed for the same.

The applicant was charged with offence under Section 279, 338, 337 of the IPC and tried by the trial Court. By the judgment dated 21-02-2006 the applicant was acquitted of the charge under Section 338 of the IPC, however, he was convicted under Section 279 and 337 (six times) of the IPC and sentenced with R.I. for three months along with fine of Rs.100/- for each count.

In the appeal preferred the appellate Court has modified conviction of

the applicant and he was sentenced only for offence under Section 337 of the IPC and sentenced with R.I. for three months along with fine of Rs.100/- and order was made to make refund of the remaining amount deposited by him as per the judgment of the trial Court.

3. It is submitted on behalf of the applicant that conviction against the applicant is erroneous without support of the evidence of prosecution beyond reasonable doubt. Therefore, it is prayed that the criminal revision be allowed and the applicant may be acquitted. In the alternative, it is prayed that if this Court is not inclined to set aside the conviction against the applicant, then the sentence of imprisonment may be reduced to the period already undergone by the applicant in jail.

4. Heard learned counsel for the parties and perused the record of the trial Court.

5. Point needs consideration is this, whether the applicant was responsible for the accident.

6. Relevant witnesses of this case are, Rimpi Nag (PW-1), who has stated that she was traveling in the jeep driven by the applicant which gathered speed and then collided with trees. She has stated in her examination-in-chief that the accident occurred because of brake fail of the vehicle. Upasana (PW-2) has narrated about the incident, but she has no knowledge whether there was a brake fail of the jeep or not. Ku. Neha Verma (PW-3) has also stated about the accident, however, she has stated that the applicant was driving the vehicle properly and she cannot make a statement as to how the accident occurred. Somit Verma (PW-4) also stated about the accident, but he has also made a statement that there was no negligence on the part of the applicant. Smt. Mamta Bisnoi (PW-5) was also one of the passengers, she has narrated about the incident and has admitted in cross-examination that the accident has occurred because of the brake fail of the jeep. Ku. Padmini Rathore (PW-7)

has supported the case of prosecution and she has denied that the accident occurred because of brake fail.

7. There appears to be contradictory statement of the witnesses as to the reason because of which the accident occurred. Some of the witnesses have stated in examination-in-chief that cause of accident had been failure of the braking system of the jeep for which the applicant himself cannot be held responsible. It was on the part of the owner of the said jeep to take care of the maintenance of the said jeep. The owner of the said jeep is not made an accused in this case, under the provisions of Motor Vehicles Act and Rules. Therefore, after perusing and appreciating all the evidence present in the record of the trial Court, I am of this view that evidence of prosecution witnesses was not very much convincing to come into single conclusion that the accident has occurred solely because of negligent act of the applicant himself. Hence, the finding of conviction recorded by the trial Court and upheld by the the appellate Court is bad in law.

8. Consequently, the criminal revision filed by the applicant deserves to be allowed and is hereby allowed. Conviction and sentence passed against the applicant by the impugned judgment dated 28-06-2006 is set aside. The applicant is acquitted of all the charges framed against him.

Sd/-

(Rajendra Chandra Singh Samant)
Judge