

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 633 of 2004

Bisahu Ram Soni, S/o. Anujram Soni, Aged About 29 Years, R/o. Belsari, P.S. Takhatpur, Teh. Takhatpur, Distt.-Bilaspur, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh, Through : District Magistrate, Bilaspur,

-----Respondent

For Applicant : Mr. N.K. Chatterjee, Advocate

For Respondent/State : Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

20/05/2020

1. This revision petition has been brought challenging the legality, propriety and correctness of the judgment dated 15.12.2004, passed in Criminal Appeal No.223/2004, by the learned Fifth Additional Sessions Judge, Bilaspur, District – Bilaspur (C.G.), whereby the learned Appellate Court has maintained the judgment of conviction and order of sentence dated 18.10.2004, passed in Criminal Case No.494/2002, by the Court of Additional Chief Judicial Magistrate, Bilaspur, U/s. 304-A of the I.P.C. and sentenced to undergo R.I. for 1 year and fine of Rs.2000/- with default stipulations.
2. The incident is of 02.11.2000. At the time of incident, the deceased Kedarnath was riding bicycle on road, when the applicant, who was driving a tractor and trolley, by rash and negligent act dashed

against the deceased on bicycle, who suffered fatal injuries and died. After lodging of FIR, the investigation was concluded and charge-sheet was filed against the applicant for prosecution under Section 304-A of the Indian Penal Code.

3. The applicant was charged for the offence under Section 304-A of the Indian Penal Code. The applicant denied the charges and prayed for trial. The prosecution examined as many as 11 witnesses on its behalf. On examining the applicant under Section 313, he denied all the incriminating evidence against him and pleaded innocence and false implication. On completion of trial, judgment has been delivered, in which the applicant is convicted and sentenced as mentioned above.
4. The appeal preferred by the applicant has been decided by the impugned order, in which the conviction and sentence against the applicant has been upheld.
5. It is submitted by the learned counsel for the applicant that the conviction against the applicant is erroneous and without the presence of evidence of prosecution beyond reasonable doubt. Hence, this revision petition be allowed and the conviction against the applicant be set-aside. It is prayed in the alternative that in case, this Court is not inclined to allow this revision and acquit the applicant, in that case, then at least sentence imposed upon the applicant, which appears to be too harsh, may be reduced to the period of detention already undergone by him in jail.

6. State counsel opposes the petition and submits that prosecution has proved its case beyond reasonable doubt, therefore, it is a clear case of conviction against the applicant for offence which has resulted in death of one person. The impugned judgment needs no interference.
7. I have heard the learned counsel for both the parties and perused the documents placed on record.
8. On perusal of the evidence present on record of the trial Court it is found that there is eye-witness account of two witnesses namely Ram Manohar Sahu (P.W.-2) and Surendra (P.W.-3), whose statement have remained unrebutted. Further there is evidence also present that death of Kedarnath was a result of accident and also after considering the other evidence present, I am of this opinion that the trial Court as well as the appellate Court have not committed any error in coming to conclusion that the applicant is guilty for the offence under Section 304-A of the Indian Penal Code and the findings of the Courts below on this point needs no interference.
9. On considering the other prayer made by the applicant side, it is found that the case is almost 20 years old. The applicant has undergone about 9 days in jail, I am of this view that no purpose would be served, if the, applicant is again sent to jail to suffer remaining sentence as imposed by the trial Court and the appellate Court. Therefore, this revision petition is allowed with modification. The conviction against the applicant is upheld, however, the sentence imposed is set-aside and instead, the applicant is directed

under Section 357 (3) of Cr.P.C. to make payment of compensation of Rs.50,000/- to the legal representatives of the deceased within a period of two months from the date of this order. In case of default, the applicant shall have to undergo simple imprisonment of six months.

10. Accordingly, the revision petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram