

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 342 of 2005**Judgment reserved on 04.02.2021Judgment pronounced on 04.03.2021

- Anand Madhav Pandey, aged 34 years, S/o Shiv Kumar Pandey,  
R/o Ratanpur, District Bilaspur, Chhattisgarh

**---- Applicant****Versus**

- State of Chhattisgarh, through District Magistrate, Bilaspur, District  
Bilaspur, C.G.

**---- Respondent**


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For Applicant : Shri. H.V. Sharma, Advocate along with  
Shri Rahul Mishra, Adv.

For State/Respondent : Shri. Vaibhav Kartikeya Agrawal, PL

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**Hon'ble Smt. Justice Vimla Singh Kapoor****CAV Judgment**

1. On 07.11.1997 at about 6.00 p.m. Kumari Bai (PW-3) and deceased namely Shivcharan and Lacchanbai boarded a jeep bearing Registration No. MP 26-W-0691 on being offered by the accused/applicant, who at the relevant time was driving the said vehicle. The vehicle, as appears from the evidence of Kumari Bai (PW-3), was being driven in a rash and negligent manner by the accused/applicant. Deceased Shivcharan had even asked him not to drive the vehicle in such a manner but the accused/applicant did not listen to him. Ultimately, near Bhairav Baba temple, the offending vehicle dashed against a stationary truck as a result of which all three suffered injuries. First they were taken to the local hospital from where they all were shifted to District Hospital,

Bilaspur where two of them being Shivcharan and Lacchanbai succumbed to the injuries suffered by them. After the last rites of the deceased persons were performed, the report (EX-P/3) came to be lodged on the basis of which offences under Sections 337 and 304-A IPC were registered against the accused/applicant. The investigation resulted in filing of the charge-sheet for those very offences and also framing of charge accordingly.

2. Learned Magistrate vide judgment impugned dated 28.09.2002 passed in Criminal Case No.2272/97 holding the accused/applicant guilty under Section 337 IPC for causing injury to Kumari Bai (PW-3) and under Section 304 A IPC for causing death of Shivcharan and Lacchanbai. The sentence imposed on him was RI for six months with fine of Rs.1,000/- under Section 304 A IPC whereas the sentence of fine of Rs.500/- was imposed on him under Section 337 IPC, plus default stipulation.
3. In appeal also the findings of learned Magistrate have been approved by the Additional Sessions Judge, Bilaspur vide judgment dated 03.08.2005. Hence this revision.
4. Number of arguments advanced by counsel for the accused/applicant such as delay in lodging the report and that Kumari Bai (PW-3) did not even remember the registration number of the offending vehicle, in the considered opinion of this Court, does not cast any impact on the case of the prosecution. In number of accident related cases it has been time and again held by the Apex Court that the prime concern in such cases where the question of life is involved, is the treatment of the accident victims and only then one has to think over the lodgment of the report etc. This is what has been done in this case. If the evidence of Kumari

Bai (PW-3) is seen for a while, it appears that the offending vehicle apart from being driven by the accused/applicant at an excessively high speed, he was rash and negligent also in so doing. She has stated in her deposition that deceased Shivcharan had even asked the accused/applicant not to drive the vehicle in a rash and negligent manner but he did not pay any heed thereto. The evidence of PW-3 gets corroborated from the evidence of Raghuram (PW-6) as well. According to both of them, deceased Shivcharan had suffered injuries on his head and right forearm whereas Kumari Bai (PW-3) had suffered injuries on her hand. PW-6 has categorically stated that it is the accused/applicant who at the relevant time was driving the offending jeep which dashed against the stationary truck near Bhairav Baba Mandir. He has further stated that it is the accused/applicant who himself had forced the victims to board his jeep. Kholbahra (PW-8) has also stated that Lacchan bai and Shivcharan have died in the accident though she did not see the occurrence.

The aforesaid factual debate thus makes it clear that on the fateful day it is the accused/applicant who was driving the offending jeep in a rash and negligent manner. It is also clear from the record that it is he who had forced the victims to get into his vehicle by giving Rs.5/-. The rash and negligence on his part in driving the vehicle also gets supported from Kumari Bai (PW-3). Thus, the rashness and negligence on the part of the accused/applicant while driving the vehicle which resulted in the tragic accident claiming two lives and causing injuries to PW-3 is fully established. That being so, his conviction under Sections 337 and 304 A IPC does not suffer from any legal flaw calling for any interference in this revision. Conviction is thus maintained.

5. As regards sentence, the incident is said to have occurred in the year 1996 and since then almost 25 years have rolled by and further keeping in mind the evidence that the accused/applicant had remained in jail from 03.08.2008 to 10.08.2005 i.e. for about a week, the interest of justice in my considered opinion would be served if the sentence imposed on him is reduced to the period already undergone. Order accordingly.
6. The revision is this allowed in part with the observations made.

Sd/-  
**(Vimla Singh Kapoor)**  
**Judge**