

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 345 of 2011

Mahendra Kumar Panigrahi, S/o. Kishore Kumar Panigrahi, aged about 27 years, R/o. Village Saraipatera, Post Kisdi, Police Station and Tahsil Saraipali, District Mahasamund (CG)

---- **Applicant**

Versus

State of Chhattisgarh, Through Police Station Saraipali, District Mahasamund (CG)

---- **Respondent**

For Applicant : Mr. Manoj Paranjpe, Advocate

For Respondent : Mr. Anand Verma, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 18.03.2021

Case of the prosecution, in brief is that on 01.06.2006 Khemraj (PW-3) was returning to his village along with father-in-law namely Bhootnath and stayed in Manjeet Dhaba, situated at National Highway No. 6 for taking meal. After taking meal, while Khemraj and his father-in-law were crossing the road, at the same time, applicant Mahendra Kumar Panigrahi who was driving a Jeep bearing registration No. CG 06/ZD 2677 came there in a rush and negligent manner and hit the father-in-law of Khemraj from his back. After the accident, Bhootnath sustained grievous injuries on his body and he was admitted in government hospital Saraipali for treatment and thereafter he was referred to Mekahara Hospital Raipur for further treatment but on the way he died. On the intimation, merg (Ex.P-8) was recorded, based on

which FIR (Ex.P-6) was registered against the applicant under Section 279 and 337 IPC in Police Station Saraipali. Seizure of Jeep (Ex.P-6) along with documents was made and the body was subjected to postmortem examination under Ex.P-7. After completion of investigation charge-sheet was filed under section 304-A IPC followed by framing of charge.

2. By the judgment dated 30.10.2009 learned trial Court convicted the accused/applicant under Section 304A IPC and imposed the sentence of RI for 2 years and to pay fine of Rs. 5000/- plus default stipulation. Learned Lower Appellate Court vide judgment impugned dated 24.06.2011 passed in Criminal Appeal No. 130/2009 modified the sentence to the extent of RI for 1 year and fine of Rs. 5000/-, plus default stipulation. Hence this revision.

3. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

6. In the present case, the important witnesses are Bhagwano (PW-1), Khemraj (PW-3) and Narendra Sao (PW-7), who are the eye witnesses of the incident and they have stated accident took place before them. They have further stated that applicant was driving the offending vehicle rashly and negligently and due to which accident occurred, deceased was hit by the said offending Jeep. They further stated that applicant did not take any care or caution, and due to which accident occurred on the Highway and the deceased was hit by the said offending Jeep from his back side. After the accident, the applicant did not stop the jeep even he tried to escape from the spot. As the impact of the said accident, the deceased succumbed to the injuries and died during treatment on the way. In the case at hand, the applicant has been found to be guilty of rash driving of the vehicle on a highway and his act unfortunately resulted in loss of a precious human life. Evidence of PW-1 gets full corroboration from Bhagchand (PW-7) as well. Dr. Pankaj Sahu (PW-8) who conducted the postmortem examination on the body of the deceased has opined that the injuries suffered by the victim was accidental in nature and the cause of death was due to excessive internal hemorrhage injury to long lead to cardio respiratory arrest. The mechanical examination of the vehicle also did not point out any fault attributable to the accident. The conviction of the accused/applicant under Section 304-A IPC is thus fully merited and being so it is hereby maintained.

7. As regards sentence, keeping in view the fact that the incident had taken place in the year 2006, that the accused/applicant has already remained in jail for a period of 06 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. In lieu of this, the applicant however, would be required to pay an enhanced sum of fine of Rs. 10,000/- from that of Rs. 5000/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of four months from today. Order accordingly.

8. With the above, the revision stands allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE