

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 514 of 2010

Order reserved on 26.02.2021

Order delivered on 07.06.2021

Naresh Kumar, aged about 19 years, S/o. Shiv Narayan, R/o. Ramgarh, P.S. Sonhat, District Korla (CG)

---- **Applicant**

Versus

State of Chhattisgarh, Through P.S. Sonhat, District Korla (CG)

---- **Respondent**

For the Applicant : Mr. D.N. Prajapati, Advocate
For the Respondent : Mr. Sameer Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

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Case of the prosecution in brief is that the victim namely Rambaran, aged about 63 years had come out of his house and was standing on the way, at the same time, the applicant was riding a motorcycle bearing registration no. CG-02/2975 and came there in a rush and negligent manner and hit the victim from his back, as a result of which, the victim sustained injuries on the various parts of his body. Thereafter, the victim was admitted in PHC Ramgarh for treatment during the treatment the victim died on the hospital on 18.01.2005. Merg (Ex.P-10) was registered and on the basis of which FIR (Ex.P-9) was registered against the applicant. After registration of offence and

completion of investigation the charge sheet was filed against the accused/applicant.

2. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Sections 279 and 304 (A) IPC and sentenced him to undergo RI for six months u/s. 279, RI for one year u/s. 304(A) IPC. Learned Lower Appellate Court vide impugned judgment dated 30.09.2010 passed in Criminal no. 04/2008 modified the impugned judgment and convicted the applicant only under section 304(A) IPC and sentenced him to undergo RI for six months and to pay fine of Rs. 5000/- plus default stipulation. Hence, this appeal.

3. Learned Counsel appearing for the applicant submits that he is not pressing this revision on merit and confining his argument to the sentence part thereof only. According to him, as the incident had taken place in the year 2005 and that he has already remained in jail for a period 8 days, no useful purpose would be served in again sending him to jail, and therefore, the sentence imposed upon him may be reduced to the period already undergone by him.

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

5. From the statement of the (PW-1) and (PW-2) who are the eye witnesses to the accident, it is clear that the applicant while riding the motorcycle bearing registration No. CG-02 / 2475 in a

rash and negligent manner and hit the victim, as a result of which the victim namely Rambaran died in the hospital during treatment. From the statement of other important witnesses, it is apparent that the accident occurred due to rash and negligent manner driving of the offending vehicle by the applicant. No mechanical fault in the vehicle leading to the accident in question has been attributed by the defence. In the case at hand, the applicant has been found to be guilty of rash driving the vehicle on a public street and his act unfortunately resulted in loss of a precious human life. A.R. Manikpuri (PW-9) and Arjun Ram Bhagat (PW-10) have proved the FIR (Ex.P-9) and spot map (ExP-11) drawn by him, it corroborates that the motorcycle had swerved to its extreme right and was found lying on the road. The Doctor (PW-11) who conducted autopsy on the body of the deceased as also medically examined the deceased has also supported the case of the prosecution under Ex.P-13. This court has held that it is common experience that in such localities, old aged people and children who were trying to cross the road without taking note of the oncoming vehicle and a duty was cast on the driver/applicant to drive the vehicle in such a manner and at such a speed that he could stop the vehicle in the eventuality of people crossing the road. Further, from the evidence of the important witnesses, the act of the applicant while driving the motorcycle in a rash and negligent which resulted in the horrendous accident claiming the life of the deceased, is established from the testimony of the material collected by the

prosecution, and that way both the Courts below do not appear to have gone wrong in holding the applicant guilty as described above, His conviction is therefore, maintained.

6. As regards sentence, keeping in view the fact that the incident had taken place in the year 2005, that the accused/applicant has already remained in jail for a period of about eight 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.

7. Revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE