

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 6 of 2012

Uttam Kumar S/o. Shyam Lal, aged about 32 years, R/o. Jamkotpara,
Kondagaon District Bastar (CG)

---- **Applicant**

Versus

State of Chhattisgarh, Through Collector, Bastar Jagdalpur (CG)

---- **Respondent**

For Applicant : Mr. Samir Singh, Advocate appointed
through Legal Aid Committee.
For Respondent : Mr. Anil Tripathi, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 01.04.2021

On the basis of FIR (Ex.P-4) lodged by Laxman (PW-1), it is clear that on 14.11.2009 the accused/applicant while driving the offending vehicle bearing registration No. CG-17-F-0131 in a rash and negligent manner came to the place of occurrence and hit Payko Bai (PW-2) who along with her son Laxman was waiting for bus. It is alleged that from the said accident, (PW-2) suffered injuries on her body and she was admitted Maharani Hospital at Jagdalpur for treatment. After completion of the investigation, charge sheet was filed for the said section against the applicant.

2. Trial Court vide judgment dated 15.09.2011 convicted the accused/application under Sections 279 and 338 IPC and imposed the sentence of RI for six months and to pay fine of Rs. 500/- plus default stipulation. Learned lower appellate court also affirmed the

same as a whole vide judgment impugned dated 30.12.2011. 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. Having heard counsel for the parties and perused the evidence on record particularly that of (PW-1)(PW-2) and (PW-3), it is clear that on the fateful day the applicant was driving the offending vehicle in a rash and negligent manner and hit Payko Bai (PW-2) causing multiple injuries on her body. No mechanical fault in the vehicle leading to the accident in question has been attributed by the defence. Even the Doctor (PW-4) who examined the victim has supported the case of the prosecution narrating multiple injuries noticed by him. 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.

6. Thus the negligence and rashness on the part of the applicant is driving the offending vehicle and the injuries to the victim is fully established and being so, the conviction recorded

by the both the Courts below does not appear to suffer from any illegality or infirmity and therefore, the same is hereby maintained.

7. As regards sentence, considering the fact that the incident had occurred in the year 2009 and since then considerable period has passed by and further that the accused/applicant has remained in jail for about ten days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

8. Revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE