

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.420 of 2012**

- Jitendra Kumar Sahu S/o Late Chhabilal Sahu, aged about 24 years, R/o Village Gangrel, Tehsil And Distt. Dhamtari, C.G.

---- Applicant**Versus**

- State of Chhattisgarh, Through : District Magistrate, , District – Dhamtari, Chhattisgarh

---- Respondent

For Applicant	:	Shri Pragalbha Sharma, Adv. And Shri Vikram Sharma, Advocate appointed through legal Aid
For Respondent	:	Shri Gagan Tiwari, Dy. G.A.

Hon'ble Smt. Justice Vimla Singh Kapoor**Order on board****01.04.2021**

On 23.09.2010 at about 10.00 a.m. when Shatrughan Sinha (PW-1) was going by walk on the Raipur – Dhamtari road, the accused/applicant herein came from behind on his motorcycle bearing registration No. CG 04 CV 5481, riding the same in a rash and negligent manner and hit him causing injuries on various parts of his body. Likewise, Alharam Dhruw (PW-4) who was also negotiating a turn on his bicycle was also hit by the motorcycle ridden by the accused/applicant and suffered injuries. PW-1 and PW-4 both are stated to have seen the accused/applicant riding the motorcycle in a rash and negligent manner. At the instance of Shatrughan Sinha (PW-1), FIR (Ex-P/1) was registered against the accused/applicant and after completion of investigation including

medical examination of both the victims, charge-sheet came to be filed under Sections 279, 337 and 338 IPC.

2. Learned Magistrate vide judgment dated 16.03.2021 convicted the accused/applicant under Sections 279 and 338 IPC and sentenced him to pay fine of Rs.500/- under Section 279 and to undergo RI for one year with fine of Rs.1,000/- twice under Section 338, plus default stipulations. Learned Lower Appellate Court vide judgment impugned dated 22.06.2021 has also approved the findings recorded by learned Magistrate as a whole. Hence this revision.

3. Heard counsel for the parties and perused the documents available on records.

4. Apart from the victims PW-1 and PW-4, there is another important witness namely Hanuman Prasad Sharma (PW-6) whose saw mill is situated adjacent to the spot where the accident is said to have taken place. Describing the manner in which the accident had occurred, he has stated that on hearing the commotion like activities resulting from the incident on the spot, he came out and saw both PW-1 and PW-4 fallen down with injuries on their body. Thereafter, he got both of them admitted to the hospital where they took treatment under admission. Santosh Kumar Dhruw (PW-3) is another important witness who has also supported the case of the prosecution stating that on being telephonically informed by the owner of the saw mill/PW-6 about the accident, he came there and got to know that his brother Alharam Dhruw (PW-4) had suffered injuries on his limbs and head and was told by PW-6 that it is the

accused/applicant who was responsible for the said accident while riding the motorcycle in a rash and negligent manner at an uncontrollably high speed. Dr. Amit Agrawal (PW-8) who medically treated both PW-1 and PW-4 has also supported the case of the prosecution. According to him, apart from other minor injuries, PW-1 had suffered the spinal bone fracture which is apparent from Ex-P/8, and PW-4 apart from cut wounds had suffered the fracture on clavicle bone as it apparent from Ex-P/9. Both the injuries according to the doctor have been opined to be grievous in nature. Nothing has been brought forth by the defence that the motorcycle ridden by the accused/applicant had developed any mechanical fault which was one of the factors leading to the accident causing injuries to PW-1 and PW-4 to absolve the accused/applicant from the criminal liability.

5. In view of the aforesaid factual discussion in the light of the evidence of the witnesses, this Court is of the considered view that both the Courts below have been fully justified in holding the accused/applicant guilty under Section 279 and 338 IPC and being a well reasoned order no interference by this Court is called for in the same. Thus, the conviction of the accused/applicant is hereby maintained.

6. As regards sentence, considering the fact and circumstances of the case, taking into account the long drawn prosecution being faced by the accused/applicant and also not being oblivious of the fact that he has also remained inside for about 18 days, in the considered opinion of this Court, no useful purpose will be served

in again making the accused/applicant remain behind the bar, and, therefore, his sentence is reduced to the period already undergone.

7. The revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge