

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No.456 of 2010

Order reserved on 04.02.2021

Order pronounced on 05.03.2021

Mahesh Korram, S/o Tem Singh Korram, R/o Village Semarakona,
Police Station Balod, District Durg (CG). ---- **Applicant.**

Versus

State of Chhattisgarh, through District Magistrate Dhamtari, District
Dhamtari. ---**Respondent.**

For Applicant : Mr. B.P. Singh, Advocate.

For State : Mr. Vaibhav Kartikeya Agrawal, PL.

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Order

On 15.08.2008 the offending vehicle being the truck bearing Registration No. CG 04/G 3283 said to have been driven by the accused/applicant in a rash and negligent manner had hit the motorcycle bearing Registration No. CG 05/C 1715 ridden by Pusauram (PW-1) along with his wife Devbati (PW-3) on the pillion carrying her 3 years old grandson in the lap. The impact of the accident was such that all the 3 bike-bornes got scattered hither and thither. The most unfortunate tragedy had happened with the 3 years old minor child in the lap of PW-3 who had come under the wheels of the truck and his head got crushed leading to his on-the-spot death. After registration of the case, all the investigation related formalities were completed including the postmortem examination of the minor deceased child. Learned Magistrate vide judgment dated 09.03.2010 found the accused/appellant guilty of driving the truck in a rash and negligent manner which led to the unfortunate accident involving the life of the minor and thus held him guilty under Sections 279 and 304-A IPC with fine of Rs.500/- under Section 279 and RI for one

year with fine Rs.1000/- under Section 304-A IPC, plus default stipulations. The finding of the Magistrate has been affirmed vide judgment impugned dated 20.08.2010 passed in Criminal Appeal No.26/2010 as a whole. Hence this revision.

2. From the evidence of Pusauram (PW-1) who was riding the motorcycle at the relevant time, it is manifest that the accused/applicant was driving the truck in question in an extreme rash and negligent manner which claimed the life of a minor child on account of being hit by the said truck and come under its wheels. PW-3, the pillion rider carrying the deceased child in her lap has also corroborated the version of PW-1 in its entirety. Dr. CL Sahu (PW-9) has found bones of the neck and that of the jaw totally smashed. The bones of the head of the deceased boy were also smashed and head the injury is attributed to have caused his death vide postmortem report Ex.P-8. At the same time, the doctor had medically examined the accused also and found that he was in a drunken state.

3. Since the accused was driving the offending vehicle being in a drunken state which hit the motorcycle ridden by PW-1 and resulted in the untimely death of a minor child of 3 years, his rash and negligence while driving the vehicle are absolutely established. Both the Courts below have been fully justified in making the finding as detailed above. No interference in this revision is called for particularly with the conviction part of the order impugned. Conviction is thus maintained.

4. As regards sentence, keeping in mind the fact that the incident had taken place in the year 2008 and that the applicant had

already remained inside for about 2 weeks, this Court is of the opinion that no useful purpose is going to be served if the accused/applicant is again sent to jail. Therefore, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

5. Revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay