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HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 12 of 2011

Upendra Kumar Poti, S/o. Dharam Singh Poti, aged about 25 years, R/o. Village Mudagaon, Police Station Deobhog, District Raipur, CG.

---- Applicant.

Versus

State of Chhattisgarh, through the District Magistrate, District Raipur, CG. **---- Respondent**

For Applicant : Mr. Shivendu Pandya, Advocate.

For State/Respondent : Mr. Ashish Tiwari, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

31.03.2021

On the basis of FIR (Ex.P-1) lodged by Baisakuram (PW-1) It is apparent that on 14.08.2009 the accused/applicant while driving the offending vehicle bearing registration No. OR-26/7196 in a rash and negligent manner came to the place of occurrence and hit Naveena (deceased), Kumari Bai (PW-3) and Meelbai (PW-4) who were sitting near the house of one Ganeshram at the relevant time. All three suffered number of injuries, but Naveena died while being taken to Deobhog hospital for treatment.

2. Trial Court vide judgment dated 15.09.2010 convicted the accused/applicant under Sections 304-A, 337 and 279 IPC and imposed the sentence of RI for two years u/s 304-A, three months u/s 337 and 279 IPC each with certain fine. Learned lower appellate Court also affirmed the same as a whole vide judgment impugned dated 31.12.2010. Hence this revision.

3. Having heard counsel for the parties and perused the evidence on record particularly that of PW-1, PW-2, PW-3 and PW-4 it is apparent that

the accused/applicant on the fateful day was driving the offending vehicle in a rash and negligent manner hit PW-3, PW-4 and the deceased, causing multiple injuries on their body. The accused/applicant is said to be in a drunken state while driving the vehicle in question and there was not even the proper light on it. PW-1 and PW-2 have also fortified the statements of PW-3 and PW-4 in letter and spirit. Even the doctor PW-5 who conducted the autopsy on the body of the deceased and also medically examined PW-3 and PW-4, has supported the case of the prosecution narrating multiple injuries noticed by him on their body.

4. Thus the negligence and rashness on the part of the accused in driving the offending tractor leading to the death of one and the injuries to two 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. As regards sentence, keeping in mind the fact that the incident is quite old and that the accused/applicant has suffered a lot by facing the prosecution since 2009 and remaining inside for about two weeks, this court is of the considered opinion that the interest of justice would be served if the sentence imposed on the accused/applicant is reduced to the period already undergone. However, in the interest of justice, the fine imposed on the applicant is enhanced to Rs. 5,000/-. The benefit of this order would be available to the accused/applicant only when he deposits the fine amount before the trial Court.

5. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan