

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 63 of 2012

Vishwanath Yadav, son of Somaru Ram Yadav, aged about 26 years, resident of Village Ghatlohanga, PS Kotwali, Jagdalpur, District Bastar (CG) --- Applicant.

Versus

State of Chhattisgarh, through PS Jagdalpur, District Bastar (CG). --- Respondent.

For Applicant	:	Mr. Manish Nigam, Adv.
For State	:	Mr. Anil Tripathi, PL.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

26/03/2021

The charge against the accused/applicant is that on 14.11.2008 at about 8:30 PM when the deceased Shiv Kumar and the two injured persons were standing near a betel kiosk, the offending vehicle i.e. the truck which was being driven by the accused/applicant in a rash and negligent manner came there and hit all three causing injuries on various parts of their bodies. Out of the three, Shiv Kumar succumbed to the injuries during treatment in the hospital. On the Dehati Nalsi (Ex.P-1) given by Rajesh (PW-1), FIR was registered against the accused/applicant under Sections 279, 337, 338 and 304-A IPC. The investigation culminated in the charge-sheet under the same sections excluding 279 IPC.

2. Learned Magistrate by the judgment dated 28.09.2011 found the accused/applicant guilty under the aforesaid 3 sections and imposed the sentence of various quantum – the maximum being one year under Section 304-A IPC and also imposed the fine. The same received affirmation in appeal also vide judgment impugned dated 23.12.2011. Hence this revision.

3. Having heard counsel for the parties and taken into consideration the evidence of injured PW-4 and PW-5 which has duly been corroborated by the eye witnesses being PW-1, PW-2, PW-3 and PW-10 it is apparent that the accident occurred due to the rash and negligent driving of the offending vehicle by the accused/applicant. No mechanical fault in the vehicle leading to the accident in question has been attributed by the defence. No evidence in rebuttal has also been brought forth by it. The doctor who conducted autopsy on the body of the deceased as also medically examined the injured PW-4 and PW-5 has also supported the case of the prosecution. According to him, he noticed number of injuries on the body of the deceased including the vital parts such as stomach, chest etc. Orthopedic surgeon (PW-6) has also stood by the case of the prosecution.

4. The rash and negligent act of the accused/applicant in driving the offending vehicle which resulted in the horrendous accident claiming the life of one and causing injuries to two, 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 accused/applicant guilty as described above. His conviction is therefore, maintained.

5. Looking to the fact that the accident had taken place in the year 2008 and since then the accused/applicant had suffered a lot by dragging on the litigation proceedings and also by spending about 3 weeks in detention, this Court is of the opinion that the interest would be served if the sentence imposed on him is reduced to the period already undergone. Order accordingly.

6. Revision is thus allowed in part.

**Sd/-
(Vimla Singh Kapoor)**

Judge