

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRR No. 11 of 2011**

Ghanshyam Gond, S/o Ankur Gond, aged about 30 years, R/o Village Siharlati, PS Deobhog, District Raipur (CG)

---- Applicant.

**Versus**

State of CG through the District Magistrate, District Raipur (CG)

--- Respondent.

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For Applicant : Mr. Shivendu Pandya, Advocate.

For Respondent : Mr. Lalit Jagnde, Dy. GA.

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**Hon'ble Smt. Justice Vimla Singh Kapoor**

**Order On Board**

**08/03/2021**

From the FIR (Ex.P-24) reduced to writing on the basis of Merg enquiry reveals that on 27.01.2008 the tractor bearing Registration No.CG-04/D.A.-3041 driven by the accused/applicant carrying number of people to a marriage ceremony got overturned as a result of which 3 valuable lives were lost and other persons on board suffered number of injuries on their bodies. On the basis of the report offences under Sections 279, 337, 338 and 304-A IPC were registered against the accused/applicant. After investigation, the *challan* was filed and the charges framed for the said offences.

2. Learned Magistrate vide judgment dated 31.08.2010 passed in Criminal Case No.374/2010 found the accused/applicant guilty under Sections 304-A, 337, 338 and 279 IPC and imposed the sentence of RI for 2 years, 3 months, 6 months and 3 months with fine of Rs.100/- under all the sections respectively, plus default stipulation. Learned lower appellate Court vide judgment impugned dated 31.12.2010 passed in CRA No.31/2010 maintained the finding recorded by the learned Magistrate as a whole.

3. Having heard counsel for the parties and perused the evidence on record, rash and negligent act on the part of the accused/applicant while driving the tractor in question is duly established. From the testimony of Godro (PW-2), Neelobai (PW-3) and Mithilabai (PW-4) it is apparent that the accused/applicant was driving the offending vehicle without even holding the steering. From the evidence of Udanram (PW-5) and Ramdas (PW-6) it is evident that being in a drunken state the accused/applicant drove the vehicle at an excessively high speed and on being asked by the passengers he did not stop the vehicle. PW-6 and Jayanti (PW-9) have also stated that the tractor in question was being driven at an excessively high speed and he did not stop the tractor even when the people on board asked him to do so being in a grip of fear for some mishap. Evidence of PW-7 also goes to show that he was told by the villagers that accused/applicant drove the vehicle rashly and negligently and it is his act which led to the tragic accident involving the life of 3 and injuries to many. From the evidence of doctor (PW-11) it is apparent that PW-10, PW-4, PW-12, PW-3, PW-5, PW-8 and PW-2 had suffered number of injuries on various parts of their bodies including limbs, out of them the injuries caused to PW-10 i.e. fracture on hip bone and to PW-8 i.e. fractures on radius bone and ulna bone were grievous in nature. PW-11 and PW-13 who conducted postmortem examination on the bodies of the 3 persons i.e. Dharmani Bai, Lalita Bai and Peeran Bai have also supported the case of the prosecution.

4. Thus the evidence as discussed above clearly goes to show that the accused/applicant had been utterly careless in driving the tractor at an excessively high speed and did not stop the same even after being asked by the persons on board. His rash and negligence in driving the offending vehicle which caused the death of 3 and injuries to many is duly proved and being so his conviction under Sections 304-A, 279, 337 and 338 IPC is fully made out and therefore, both the Courts below have not committed

any error of law in recording the finding to this effect. Conviction of accused/applicant under all the sections recorded above is hereby maintained.

5. However, keeping in mind the fact that sufficient long time has elapsed from the year 2008 and that by now the accused/applicant who has already remained in jail for about two weeks, must have fallen in the heap of responsibilities, this Court does not think it proper to again send him behind the bars and thereby unsettle his already settled family life. Being so, the sentence imposed on the accused/applicant is reduced to the period already undergone.

6. Revision thus partly allowed.

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

Jyotishi/Ajay