

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 248 of 2012

Om Prakash Sahu, age 22 years, S/o. Ramkumar Sahu, R/o.
Village Beergaon, & P.S. Urla, District Raipur, CG.

---- Applicant.

Versus

State of Chhattisgarh, through P.S. Mahasamund, District
Mahasamund, CG.

---- Respondent

For Applicant : Mr. Jameel Akhtar Lohani, Advocate.

For State/Respondent : Mr. Anil Tripathi, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

06.04.2021

The FIR (Ex.P-7) registered on the basis of information furnished by Pardesi (PW-5) goes to show that on 27.11.2005 he along with many others inclusive of his family members had gone to Tumgaov to meet his relative in a mini vehicle bearing registration No. CG 04/T/1860. The FIR further shows that while going to Raipur the accused/applicant who was driving the offending vehicle in a rash and negligent manner hit the divider situate on the road which led to somersault of the vehicle as a result of which many people on board had suffered number of injuries on various parts of their body. Thereafter, they were taken to District Hospital Mahasamund, where Nathuram succumbed to the injuries during treatment. FIR registered was under Sections 279 and 304-A IPC, but after completion of investigation the charge-sheet was filed under Sections 279, 338 and 304-A IPC. Learned Magistrate however framed the charge under Sections 279, 338, 304-A and 337 IPC.

2. Learned Magistrate vide judgment dated 27.06.2009 convicted the accused/applicant under Sections 279, 337, 338 and 304-A IPC and

imposed the sentence of six months RI with fine of Rs. 200/- u/s 279, 337 and 338 each and RI for one year with fine of Rs. 400/- u/s 304-A IPC, plus default stipulations. Learned lower appellate Court vide judgment impugned dated 24.03.2012 also upheld the findings recorded by learned Magistrate. Hence this revision.

3. Heard counsel for the parties and perused the material available on record.

4. From the overall evidence of the witnesses, it is apparent that about 12-15 persons were on board in the vehicle in question at the relevant time. From the statements of almost all the persons who were traveling in the said vehicle it is apparent that the accused/applicant was driving the said vehicle in a rash and negligent manner and at an excessively high speed as a result of which the vehicle struck the divider took a somersault leading to the life of one and injuries to many. On the body of deceased Nathuram, as is clear from the postmortem report conducted by Dr. S. Chandravanshi (PW-1), there was a lacerated wound on the left parietal region, depressed fracture was there, lacerated wound was also present in the upper lip including the fracture on right forearm, humerus bone and left clavicle bone were also fractured. The doctor has also medically examined Santosh (PW-10) and found number of injuries on his body, and for ascertaining the further complication he referred him to radiologist (PW-13) who has stated that the left ulna bone of PW-10 was fractured.

5. Though not medically examined, Gopalram (PW-12), Pardesi (PW-5), Khoobchand (PW-3) and others are also stated to have suffered injuries on their body.

6. Thus one thing is evident from the material available on record that it is the excessively high speed with which the accused was driving the

offending vehicle is attributable to the accident in question involving the life of one and injuries to many. Almost all the witnesses who were on board have stated that the accused/applicant was driving the offending vehicle in a rash and negligent manner and on account of being struck with the divider it turned turtle and resulted in injuries to many people out of whom the deceased died in the hospital while taking treatment. Thus there is no infirmity or illegality in the findings of conviction recorded by both the Courts below warranting any interfere therewith. Conviction of the accused/applicant is hereby maintained.

7. As regards sentence, keeping in mind fact that the incident had taken place about 16 years back and that since then the accused/applicant is pulling with the prosecution and also remained in jail for about a week, this Court is of the opinion that the interest of justice would be served if the sentence imposed on him is reduced to period already undergone. Order accordingly.

8. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge