

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 258 of 2012

Bhakt Prahlad, S/o. Siyaram Sahu, aged about 30 years, R/o. Village Gaurgaon, PS Keskai, District Bastar (CG)

---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate Bastar District Bastar (CG)

---- Respondent

For Applicant : Mr. Rajbahadur Singh, Advocate.
On behalf of Mr. Awadh Tripathi,
Advocate
For Respondent : Mr. Anil Tripathi, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 06. 04. 2021

In this case the victim (PW-3) Anil Benjamin who at the relevant time was riding a Luna moped was hit by speeding Jeep driven by the accused/applicant in a rush and negligent manner, as a result of which the jeep fell down in a ditch along with the victim. The impact of the accident made both the accused as well as victim (PW-3) unconscious. When Alexgender(PW-1) was passing through the road, he saw the jeep falling in the ditch and when he went there he found both the accused as well as victim lying there unconscious. He thereafter informed the police and after arrival of the police, the victim and the accused were shifted to Maharani Hospital for treatment. On the basis of FIR (Ex.P-1), offence under Sections 279 and 338 IPC were registered and after completion of the investigation, charge sheet was filed for the said sections.

2. Trial Court vide judgment dated 25.06.2010 convicted the accused/applicant under Sections 338 IPC and imposed the sentence of RI for six months and to pay fine of Rs. 500/- plus default stipulation. Learned lower appellate court also affirmed the same as a whole vide judgment impugned dated 27.03.2012 Hence, this revision.

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

4. Though PW-1 who gave the information to the police does not claim to have seen the driver of the vehicle, yet one Arjun Yadav (PW-5) who was also sitting by the side of the accused in offending vehicle has clearly stated that the said jeep was driven by the accused/applicant himself. This apart, the accused/applicant has also admitted that he was driver of the offending vehicle at the relevant time. Apart from the victim (PW-3), Arjun Yadav (PW-5) and the accused Bhakta Prahlad also suffered injuries. Dr. (PW-2) namely Sandeep Singh has noticed the injuries on the head and heel of the victim (PW-3) and bone of the right hand was fractured. This is evident from the medical report (Ex.P-1). Likewise, the same doctor has noticed abrasion on both the knees and right hand of PW-5. He also noticed injuries on the body of the accused Bhakta Prahlad which is evident from the report (Ex.P-3). Victim (PW-3) while supporting the case of the prosecution has also stated that he was on his side while riding Luna moped but the accident occurred on account of rush and negligent driving of the jeep driven at a relatively high speed. Thus, there is sufficient evidence to hold that the accident in question causing injuries to PW-3 and PW-5 and one

other person not examined. All the witnesses have stated consistently that the Luna moped ridden by the victim was hit by the offending vehicle which was driven by the applicant, as is clear from the evidence of PW-5 and applicant himself. Thus there is no room for any disturbance in the clearly recorded findings by both the Courts below. It is hereby maintained.

7. As regards sentence, considering the fact that the incident had occurred in the year 2009 and since then considerable period has passed by and further that the accused/applicant has remained in jail for about six days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

8. Revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE