

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 530 of 2013

Preetam Lal Sahu, S/o. Late Budhram Sahu, aged about 28 years,
R/o. Village – Farhada, P.S. Kharora, District – Raipur, (CG).

---- **Applicant.**

Versus

State of Chhattisgarh, through Police Station Kharora, District
Raipur, CG.

---- **Respondent**

For Applicant : Mr. C.R. Sahu, Advocate.

For State/Respondent : Mr. Sameer Sharma, Dy. GA.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

25.02.2021

On 01.02.2012 while returning from village Bardih to village Amodi in a Tata Magic vehicle which was hired by as many as 12-13 persons, the same collided with a tractor bearing Registration No. CG04 DM/2721 driven by the accused/applicant. The Tata Magic vehicle was driven by Umesh (PW-3) in which Dukaluram (PW-1), Radheshyam (PW-2), injured Itwari (PW-6), Injured Sudama (PW-7) along with others namely Ghasiya, Mohan, Billu etc. were on board. The accident took place when PW-3 – the driver of the Tata Magic was trying to overtake the tractor being driven by the accused/applicant who had all of a sudden turned his vehicle to the right side without giving any indication thereof. In the said accident Itwari and Sudama suffered injuries, and subsequently on the basis of report lodged by Radheshyam (PW-2) FIR (Ex.P-1) was registered against the accused/applicant for the offence under Sections 279 and 337 IPC. The investigation resulted in filing of charge-sheet against the accused/applicant under Sections 279, 337 and 338 IPC and framing of charge by the Court below for the said offences.

2. Learned Magistrate vide judgment dated 10.04.2013 passed in Criminal Case No.85/2012 convicted the accused/applicant under the same sections for which the charges were framed and imposed the sentence of RI for 3 months under Section 279, RI for 6 months under Section 337 and RI for one year under Section 338 IPC. On appeal, learned lower appellate Court maintained the finding of conviction under all three sections but reduced the sentence to RI for one month from that of 3 months under Section 279, RI for 2 months from that of 6 months under Section 337 and RI for 6 months from that of one year under Section 338 IPC, by imposing the fine amount also. Hence this revision.

3. Having heard counsel for the parties and taken into consideration the evidence of PW-1, PW-2, PW-6 and PW-7 it is apparent that when the driver of Tata Magic vehicle tried to overtake the offending tractor driven by the accused/applicant herein, he without giving any indication took the same towards the right side as a result of which the Tata Magic vehicle collided with the tractor and took a somersault. As a result of the accident, PW-6 and PW-7 suffered injuries. According to the doctor (PW-4) who medically examined the injured witnesses namely Itwari (PW-6) and Sudama (PW-7) has stated vide report Ex.P-2 that injured Sudama had suffered simple injuries on his right wrist and shoulder whereas, injured Itwari (PW-6) suffered injury on his right elbow, small bones were found in the wound, blood vessels were cut, muscles were ruptured and joint capsule was also damaged. The report of this witness with respect to Itwari (PW-6) happens to be Ex.P-3 which opines the injuries to be grievous in nature. The negligence and rashness on the part of the accused/applicant in turning the offending tractor towards the right direction without giving an indication resulting in collision by the Tata Magic, the driver of which was trying to overtake, is clearly proved. In this view of the matter, both the Courts below have been fully justified in

convicting the accused/applicant for the offences referred to above. His conviction is accordingly maintained.

4. As regards sentence, keeping in mind the facts and circumstances of the case and that the accused/applicant has remained behind the bars from 14.08.2013 to 13.09.2013, and that the incident had occurred in the year 2012, no useful purpose would be served in again dispatching him to jail. Thus the interest of justice would be served if the sentence imposed of him is reduced to the period already undergone. Order accordingly.

5. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay.