

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 157 of 2013

Durgesh Yadav S/o. Gaindram Yadav, aged about 25 years, R/o. Village Borid, Police Station Fingeshwar, District Gariyaband (CG)

---- **Applicant**

Versus

State of Chhattisgarh, Through Police Station Fingeshwar, District Gariyaband (CG)

---- **Respondent**

For Applicant : Mr. K.K. Dewangan, Advocate
For Respondent : Mr. Vaibhav K. Agrawal, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 04.03.2021

Case of the prosecution in brief is that memo (Ex.P-1) was sent to Police Station Fingeshwar by Block Medical Officer Fingeshwar regarding accident of victim Jeevan Lal and on the basis of which FIR (Ex.P-2) was registered in Crime No. 109/2009 against the applicant for offence punishable under Section 279 and 337 IPC. Allegation against the applicant is that while the victim was going to his field on his bicycle at that time the applicant came there in rush and negligent manner to his motorcycle bearing registration No. CG 05/CN/2872 and hit the bicycle of the victim from the back side, as result of which, he fell on the ground and become unconscious and thereafter the victim was admitted CHC Fingeshwar for treatment fromwhere he was referred to Raipur for further treatment where the applicant died. After

completion of investigation, charge sheet was filed against the applicant under section 279,337 and 304(A) IPC and the charge sheet was framed accordingly.

2. By the judgment dated 11.12.2012 learned trial Court convicted the accused/applicant under Section 304 A IPC and imposed the sentenced him to undergo RI for one year and to pay fine of Rs. 500/- plus default stipulation. In appeal, the conviction recorded by the trial Court has been affirmed. Hence, this revision.

3. Counsel for the accused/applicant apart from vehemently arguing his case makes an alternative prayer that if his submissions do not yield any positive result on conviction part of the judgment impugned, keeping in mind the fact that the accused/applicant has already faced a lot for his misdeeds and remained inside for about eight days, the sentence imposed on him may be reduced to the period already undergone.

4. State counsel however supports the judgment impugned and submits that the concurrent findings of fact recorded by both the Courts below being well grounded and well founded do not call for any disturbance in these revisions.

5. Having heard counsel for the parties and perused the material available on record including the evidence eye witnesses PW-2, PW-4 and PW-6 clearly goes to show that at the relevant time the applicant was driving a motorcycle bearing registration no. CG 05 CN 2872 with rash and

negligent manner and hit the bicycle of the victim from the wrong side. As a result of the accident, the victim suffered injuries on his head the blood was present on the spot and thereafter, when he become unconscious and was admitted in hospital for treatment and thereafter he was referred to Raipur hospital for further treatment where he died during the treatment. As per Ex.P-8 it is clear that the visor of the motorcycle was broken after the accident and also from the seizure memo Ex.P-10, seized motorcycle was driven by the applicant at the time of accident registration papers were seized in which the name of the applicant was mentioned. Doctor (PW-12) who conducted the postmortem examination on the body of the deceased has clearly stated that numbers of injuries including fracture were found on the body of the deceased and he opined that the cause of death was due to cardiorespiratory failure as a result of head injury and their complications under Ex.P-12. Over all impact of the accident was unfortunate and untimely death of the deceased. State of Ishwar Lal Sahu (PW-3) has fully corroborated from the statement of Jeevan Lal Sen (PW-2). Thus the rashness and negligence on the part of the accused/applicant in riding the motorcycle on a road without giving an indication for that is clearly proved. In this view of the matter both the Courts below have been fully justified by convicting the

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

6. 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 eight days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

7. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

JUDGE