

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.42 of 2013**

- Sahdeo Ram, S/o Rohidas, Aged about 50 years, R/o Village Maini, P.S. Bagicha, District – Jashpur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through District Magistrate Jashpur, District – Jashpur, Chhattisgarh

---- Respondent

For Applicant	:	Shri J.K.Saxena, Adv.
For Respondent	:	Shri Anil Tripathi, P.L.

Hon'ble Smt. Justice Vimla Singh Kapoor**Order on board****06.04.2021**

According to the FIR (Ex-P/1) lodged by Sushma (PW-1) on 01.05.2010, the tractor bearing registration number CG 14 A 3374 being driven by the accused/applicant rammed into the house of Ghunsai (PW-2). One of the labourer occupying the offending tractor fell down and suffered multiple injuries including the one on head. Sushma (PW-1) who was also sitting in the said tractor also suffered injuries on her body including head. As is apparent from the testimony of Sushma (PW-1) and Nirmala (PW-4) who was also occupying the tractor, the accused/applicant was driving the tractor rashly and at an excessively high speed. While being taken to Bagicha Hospital, Parvati succumbed to the injuries suffered by her, whereas other injured person namely Sushma received treatment.

2. Learned trial Court convicted the accused/applicant under Sections 279, 337 and 304 (A) IPC by imposing fine of Rs.500/- each under Section 279 and 337 and also imposing the jail sentence of one year with fine of Rs.500/- under Section 304 (A) IPC, plus default stipulation. Learned lower Appellate Court vide judgment impugned maintained the findings recorded by learned Magistrate as a whole. Hence this revision.

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

4. From the evidence of Ghunsai (PW-2) and Kaseela (PW-3) it is apparent that after hearing sound of sliding of the tiles, they came out and saw the deceased and Sushma (PW-1) lying there and certain portion of their house also got damaged. Sushma (PW-1) and Nirmala (PW-4) who at the relevant time was also occupying tractor in question have categorically stated that the accused/applicant was driving the said tractor at a great speed. Both of them have also stated that after being shifted to hospital the deceased breathed her last. Dr. C.D. Bakhla (PW-9) who conducted the postmortem examination on the body of the deceased has stated that apart from the injuries on other parts, he noticed the injury in the periphery of the eyebrows and the cause of death according to him, was hemorrhage as a result of head injury. He also medically examined injured Sushma (PW-1) and noticed lacerated wound on the left wrist along with bruises, and after giving the first aid she was referred to district hospital. Thus, from the evidence of Sushma (PW-1) who also suffered injuries on her body and also that of Nirmala (PW-4) – both occupants of the offending tractor, it is clear that the accused/applicant was negligent in driving the offending vehicle and it is his act which resulted in the accident causing death of one and the

injury to the other. There is nothing on record to show that the tractor in question which rammed into the house of Ghunsai (PW-2) and Kaseela (PW-3) was on account of any mechanical failure. Therefore, in the totality of the circumstances the entire fault leading to accident involving precious life of one is fully attributable to the accused/applicant only and therefore, the concurrent findings recorded by both the Courts below as regards conviction do not suffer from any legal flaw warranting any interference therewith. Conviction is accordingly maintained.

5. As regards sentence, considering the fact and circumstances of the case including the fact that the accused/applicant has faced enough of his folly and remained in jail for about a week, after such a lapse of time it would not appropriate to send him behind the bar and thereby disturb his entire settled family life. In these circumstances, the sentence imposed on the accused/applicant is reduced to the period already undergone. However, in the interest of justice the sentence of fine is enhanced to Rs.2000/- from Rs.500/- and it is made clear that the benefit of this was available to this accused/applicant only after the enhanced amount is deposited in the trial Court. Order accordingly.

6. The revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge