

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.817 of 2012

Punam Prasad Yadav S/o. Shri Balmukut Yadav, aged about 21 years, R/o. Gaibuda, Police Station Bagicha, District Jashpur (CG)

---- **Applicant**

Versus

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

---- **Respondent**

For Applicant : Mr. J.K. Saxena, Advocate.
For Respondent : Mr. Sameer Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 08.04.2021

Facts of the case in brief is that 03.012.2004, the applicant was driving the tractor bearing registration No. MP 27 B 5719 with a rush and negligent manner. Victim Janki Bai and Buchi Bai were also sitting in the said tractor. On the way, when they reached near Ghat, the driver lost his balance there and the offending vehicle got turned turtle. Victim Shibo come under the wheel of the offending vehicle and Parvati Bai sustained injuries on her body. Husband of Parvati Bai namely Balmiki (PW-2) while passing from there and thereafter he immediately admitted his wife in hospital for treatment and lodged FIR (Ex.P-2) in police station. After completion of the investigation, charge sheet was filed for the said section against the applicant.

2. Trial Court vide judgment dated 21.05.2012 convicted the accused/application under Sections 337 and 304(A) IPC and

imposed the sentence of RI for one year and to pay fine of Rs. 1000/- under Section 304(A) and to pay fine of Rs. 500/- under Section 337 IPC for plus default stipulation. Learned lower appellate court also affirmed the same as a whole vide judgment impugned dated 11.12.2012. Hence, this revision.

3. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. Having heard counsel for the parties and perused the evidence on record particularly that of (PW-2), (PW-3) and (PW-6), it is clear that on the fateful day the applicant was driving the offending vehicle tractor bearing registration No. MP 27 B 5719 in a rash and negligent manner. Umashankar (PW-10) is the owner of the tractor who testified that at the time of the accident, accused was the driving the tractor. From the evidence of victim Janki Bai (PW-6) it is also clear that the tractor was fully loaded with oil and *daliya* and when the said tractor reached near Ghat, then the driver lost his control over the tractor and the tractor was going down to slop and fell into the pit, as result of accident, Shibo Bai come under the wheel of tractor and Jankibai sustained grievous injuries on her body. It is further stated that after the accident, the applicant left the tractor on the spot and fled from there. Dr. T.K. Sahu (PW-13) is the doctor who has conducted autopsy of the body and issued Ex.P-

8 postmortem certificates of deceased Shibo Bai. He opined that the cause of death was neurogenic shock due to injuries and the nature of death was accidental under Ex.P-8. No mechanical fault in the vehicle leading to the accident in question has been attributed by the defence. Raghusai Paikara (PW-13) is the Investigating officer who conducted the investigation. Balmiki (PW-2) lodged the FIR (Ex.P-2) on the same day at police station and on the basis of which merg intimation (Ex.P-4) was also registered. Thus the negligence and rashness on the part of the applicant is driving the offending vehicle and the injuries to the victim is fully established and being so, the conviction recorded by the both the Courts below does not appear to suffer from any illegality or infirmity and therefore, the same is hereby maintained.

6. As regards sentence, considering the fact that the incident had occurred in the year 2004 and since then considerable period has passed by and further that the accused/applicant has remained in jail for about 19 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