

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1548 of 2019

Arising Out of PS. Case No.-78 Year-2005 Thana- BENIPATTI District- Madhubani

Babu Saheb Kamat

... .. Petitioner/S

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Adv.

For the Respondent/s : Mr. Rina Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

8 16-07-2024

This revision petition has been preferred by the petitioner against the Order dated 18.11.2019 whereby the learned Appellate Court i.e. Sessions Judge court affirmed the conviction of the applicant for the offences punishable under Section 279 and 304(A) of IPC.

2. Learned counsel for the petitioner submits that the matter may be heard finally at this stage itself. Learned counsel for the State agrees with the proposal made by the counsel for petitioner.

3. With the consent of both the counsels heard finally.

4. This revision petition has been preferred by the petitioner being aggrieved with the judgment dated 18.11.2019 whereby the learned Sessions Court affirmed the judgment passed by the learned Judicial Magistrate First Class, Bennipatti,



Madhubani in T.R. Case No. 1551 of 2019 arising out of G.R. Case No.750/2005 P.S. Case No. 78/2005 whereby, the learned Judicial Magistrate First Class convicted the petitioner-accused for the offences under Section 279 and 304(A) IPC and sentenced him simple imprisonment for six months and two years respectively with fine of Rs. 1,000/- and 4,000/- respectively for the aforesaid offences which has been also affirmed by the learned Appellate Court.

5. According to the case of prosecution, allegedly on 13.05.2005 at about 06:30 A.M. the deceased Kamal Kishore Sah @ Kanko the minor son of the informant was going to school, the petitioner driver of the offending vehicle driving the tractor bearing no. BR 32B 1850 rashly and negligently drove over the boy resulting in his death. On the basis of information given by father of the deceased offence was registered and after completion of the investigation charge-sheet was filed before the learned Judicial Magistrate First Class and, the learned Judicial Magistrate First Class framed the charges and after conclusion and trial convicted and sentenced the applicant as mentioned herein above which has been affirmed by the learned Appellate Court vide impugned judgment dated 18.11.2019.

6. Learned counsel for the applicant - petitioner



submits that he does not want to argue this petition on the merit of case and confine his argument only on the sentence part. He submits that the incident is of the year 2005 and the petitioner is facing this lis from last 19 years, he has no any previous incident. He further submits that in compliance of the order passed by this Court, a demand draft of Rs. 50,000/- has also been submitted by the petitioner to compensate the father of the victim. Lastly, he submits that during course of trial the petitioner also remained behind the bar for some period. Therefore, it is prayed by the counsel that petitioner may be sentenced for the period already undergone by him.

7. Learned counsel appearing on behalf of the State opposes the argument raised by the counsel for the petitioner.

8. Heard.

9. Considering the facts of the case and further considering the fact that the petitioner is facing this lis from last 18-19 years and has no any previous antecedent, and also has undergone some days during trial, further considering that the age of the deceased boy was only six years, it would be appropriate to sentence the petitioner for the period already undergone by him in this case, ordered accordingly.

10. Further the fine amount imposed upon the



petitioner is enhanced as a total fine of Rs. 50,000 (Rs.1,000/- for the offense punishable under Section 279 of the Indian Penal Code and Rs. 49,000/- for the offense punishable under Section 304(A) of the Indian Penal Code). The fine amount deposited by the petitioner be given to the father of the deceased i.e. Sri Raghubir Sah as compensation.

11. Considering the fact that a Demand Draft of Rs. 50,000/- as directed by this Court has already been deposited by the petitioner which should be treated as fine amount of Rs. 50,000/-, as discussed earlier. Therefore, the record of the court below is remitted back to the concerned Judicial Magistrate, First Class along with Demand Draft deposited by the petitioner. The learned Judicial Magistrate, First Class, Benipatti, Madhubani is further directed to provide/handover the said Demand Draft to the father of the deceased, namely, Raghubir Sah. Accordingly, this revision petition is disposed of.

(Arvind Singh Chandel , J)

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