IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 895 of 2017

Bhutali Mahto, son of Sri Bheem Mahto, resident of Koyarpara, P.O. + P.S. – Burharwa, District – Sahibganj.

.... **Petitioner**

Versus

The State of Jharkhand .... **Opp. Party**

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioner : Mrs. Niharika Mazumdar, Advocate.
Mr. Niraj Kumar Sinha, Advocate.
For the State : Mrs. Nehala Sharmin, Spl.P.P.

JUDGMENT

CAV On Dated- 18.09.2026 Pronounced On 30.10.2026

Heard learned counsel for the parties.

2. The instant criminal revision is directed against the judgment dated 18.05.2017 passed by learned Additional Sessions Judge-I, Sahibganj in Criminal Appeal No. 54 of 2014, whereby and whereunder the appellate court has dismissed the appeal preferred by the petitioner and confirmed the judgment of conviction and order of sentence dated 24.06.2014 passed by learned S.D.J.M., Sahibganj in G.R. No. 351 of 2012 (T.R. No. 105 of 2014), whereby the petitioner has been held guilty and convicted for the offence punishable under Sections 279, 338 and 304-A of the I.P.C. and sentenced to undergo S.I. for 06 months for the offence under Section 279 of I.P.C., further sentenced to undergo and S.I. for 02 years each for the offence under Sections

338 and 304-A of I.P.C. All the sentences were directed to run concurrently.

Factual Matrix

3. Factual matrix giving rise to this revision is that on 04.07.2012 at 10:00 hours, the informant namely, Lukhiram Hansda along with his son Karu Hansda proceed to his father-in-law's house by his bicycle and when they reached PHC, Barhait road, a truck bearing registration no. WB-65-9826, being driven rashly, dashed his bicycle from front and as a result of which, both of them were fall on the ground. The son of the informant received serious injury in his stomach and died on the spot. On the basis of fardbeyan of informant recorded by police, F.I.R. was registered against unknown driver of truck bearing registration no. WB-65-9826 for the offence under Sections 279, 337, 338 & 304-A of the I.P.C.

4. After conclusion of investigation, charge sheet was submitted against the present petitioner and cognizance was taken. On 22.02.2013, accusation under Sections 279, 337, 338 and 304-A of the I.P.C. has been explained, to which he denied, pleaded not guilty and claimed to be tried.

5. In course of trial, altogether three witnesses were examined by prosecution namely, Sahabram Soren (P.W.-1), Lukhiram Hansda (Informant) (P.W.-2) and Dr. Mahmood

Alam (P.W.-3). Apart from oral evidence of witness, the prosecution has also adduced one documentary evidence:-

Exhibit-1 : Post-mortem report of deceased.

6. On the other hand, the case of defence is total denial from occurrence and nothing more. However, no oral or documentary evidence were adduced by defence.

7. The learned trial court, after evaluating the evidence recorded findings that all the witnesses of facts including P.W.-2 (injured) consistently proved that the driver of offending vehicle dashed the bicycle of the informant from front at about 10:00 A.M. near PHC, Barhait road, as a result of the said accident, son of the informant namely, Karu Hansda died. The driver of the vehicle is also identified as an accused present behind the dock, facing the trial. The factum of accident is also corroborated from the evidence of P.W.-3 Dr. Mahmood Alam, who has conducted autopsy on the dead body. It was also held that the prosecution has proved its case beyond all reasonable doubt that the accused was driving the vehicle very rashly and negligently at the time of occurrence. Accordingly, convicted and sentenced the petitioner for the aforesaid offences, as stated above.

8. The convict preferred a Criminal Appeal against his conviction and sentence by the learned trial court vide

Criminal Appeal No. 54 of 2014, which has been dismissed by the learned appellate court, upholding the judgment of conviction and order of sentence passed by the learned trial court.

9. Assailing the impugned judgments, learned counsel for the petitioner submitted that this case involves the death of one person (the informant's son) who, along with his father (the informant), met with an accident involving a truck while they were traveling to his in-laws' house on a bicycle. The Investigating Officer has not been examined in this case. Therefore, the place of occurrence was not established with exactitude and site plan has not been proved. The learned trial court as well as learned appellate court has failed to consider the above aspects of the case and arrived at wrong conclusion. Both learned trial court as well as appellate court has recorded perverse finding, which are liable to be set aside and this revision may be allowed.

10. On the other hand, learned counsel Spl.P.P. for the State has vehemently opposed the contentions raised on behalf of the petitioner and submitted that there is concurrent findings of facts that there is rash and negligent driving by its driver (petitioner) and as a result of which, informant and his son met with an accident and son of the informant died on the spot. The learned trial court as well

as learned appellate court has not committed any error of law in convicting and sentencing the petitioner. Therefore, there is no merit in this revision, calling for any interference in the impugned judgment and order, which it fit to be dismissed.

11. I have gone through the record of the case along with impugned judgment in the light of contentions raised on behalf of both side.

12. The Hon'ble Apex Court in the case of ***Balwant Singh Vs. State of Punjab*** reported in ***1994 Supp (2) SCC 67*** has held that :-

> *"8. Then the question would be whether an offence under Section 304-A IPC is made out? The provisions of this section apply to cases where there is no intention to cause death and no knowledge that the act done in all probabilities will cause death. Therefore this provision is directed at offences outside the range of Sections 299 and 300 IPC and obviously contemplates those cases into which neither intention nor knowledge enters. The words "not amounting to culpable homicide" in the section are very significant and it must therefore be understood that intentionally or knowingly inflicted violence directly and wilfully caused is excluded. The section applies only to such acts which are rash or negligent and are directly the cause of death of another person. In other words, a rash act is primarily an overhasty act as opposed to a deliberate act but done without due care and*

> *caution. Then the question whether the conduct of the accused amounted to culpable rashness or negligence depends on the amount of care and circumspection which a prudent and reasonable man would consider it to be sufficient and this depends on the circumstances in each case."*

13. From the aforesaid facts, it appears that the victim and deceased were hit by vehicle rashly and negligently and considering the testimony of ocular witnesses examined in this case, both the trial court and appellate court have recorded concurrent findings establishing the charges under Sections 279, 338 and 304-A of the I.P.C. against the present petitioner. In the evidences of witnesses, no contradictions or discrepancies have been elicited during cross-examination and pointed out at the time of argument, even before this Court. Therefore, non-examination of the Investigating Officer does not affect the merits of the case.

14. Considering the overall aspects of the case, I do not find any legal substance in the points of argument raised on behalf of the petitioner and no merits in this revision. Accordingly, this revision is **dismissed**.

15. The petitioner is on bail. His bail bond is hereby cancelled.

16. The petitioner is directed to surrender before the concerned Trial Court within two months from the date of this judgment and receive the remaining period of sentence

awarded by the learned Trial Court, failing which, the learned Trial Court shall take all coercive steps in securing the attendance of the petitioner and sending him under proper conviction warrant to jail custody for undergoing the remaining period of sentence awarded to him.

17. Pending I.A, if any, stand disposed of.

18. Let a copy of this judgment along with trial court record be sent to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated : 30/10/2026
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Uploaded on 30/10/2026