IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 1150 of 2017

Shyam Narayan Singh, S/O Late Jageshwar Singh, Resident of Village – Khora, P.O. & P.S. – Gumla, District – Gumla.

.... **Petitioner**

Versus

1. The State of Jharkhand
2. Vidya Bhushan Sahu, S/o Gajendra Sahu, R/o Hundra Toli, P.S. – Gumla, District – Gumla

.... **Opp. Parties**

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioner : Mr. Mohit Prakash, Advocate.
Mr. Abhinav Kumar, Advocate.
For the State : Mrs. Mahua Palit, A.P.P.
For the O.P. No. 2 : Mr. Rajesh Kumar Mishra, Advocate.

JUDGMENT

CAV On Dated- 20.08.2026 Pronounced On 30.10.2026

Heard learned counsel for the parties.

2. The instant criminal revision is directed against the judgment dated 17.07.2017 passed by learned Sessions Judge, Gumla in Criminal Appeal No. 28 of 2017, 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 03.06.2017 passed by learned Chief Judicial Magistrate, Gumla in G.R. No. 97 of 2010 (arising out of Gumla P.S. Case No. 40 of 2010, whereby the petitioner has been held guilty and convicted for the offence punishable under

Sections 279 and 304-A of the I.P.C. and directed to undergo S.I. for 03 months for the offence under Section 279 of I.P.C. and S.I. for 01 year for the offence under Section 304-A of I.P.C. Both the sentences were directed to run concurrently.

Factual Matrix

3. Factual matrix giving rise to this revision is that on 05.02.2010 at about 10:30 A.M. one Kailash Sahu, aged about 05 years while playing near his house situated at Sisai Road, was dashed by pick-up van bearing registration no. JH-01AB-7568, being driven rashly and negligently by its driver. As a result of the above accident, the said Kailash Sahu died. The informant Vidhya Bhushan Sahu at the relevant time was engaged in loading sand at National Highway-23 Sisai-Gumla road received a telephonic message from Karma Gope and went to the place of occurrence, where villagers disclosed the vehicle number and the name of driver of offending vehicle. On the basis of fardbeyan of informant recorded by police, F.I.R. was registered against unknown driver of pick-up van registration no. JH-01AB-7568 for the offence under Sections 279/304-A of the I.P.C.

4. After conclusion of investigation, charge sheet was submitted against the present petitioner and cognizance

was taken. After appearance of the accused and after supply of police paper, substance of accusation was explained to the accused, to which he denied and claimed to be tried.

5. In course of trial, altogether eight witnesses were examined by prosecution namely, Hafindra Sahu (P.W.-1), Gajendra Sahu (P.W.-2), Satyanarayan Kumar (P.W.-3), Vidhya Bhushan Sahu (Informant) (P.W.-4), Ram Niwas Sahu (P.W.-5), Chhote Lal Sahu (P.W.-6), Karma Gope (P.W.-7) and Dr. Anag Raj Subhash Chandra (P.W.-8). Apart from oral evidence of witness, the prosecution has also adduced following documentary evidence:-

Exhibit-1 : Signature of Vidhya Bhushan Sahu (informant) on fardbeyan.

Exhibit-2 : Post-mortem report of deceased.

6. On the other hand, the case of defence is simple denial from occurrence and plea of false implication. 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 consistently proved that the driver of offending vehicle dashed a 05 year child near the hand pump of his house situated near the road at about 9-10 A.M., as a result of the said accident,

child namely, Kailash Sahu died. The driver of the vehicle is also identified as an accused present behind the dock and facing the trial. The factum of accident is also corroborated from the evidence of P.W.-8 Dr. Anag Raj Subhash Chandra, 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. 28 of 2017, which has not been dismissed by the learned appellate court, upholding the conviction and sentence passed by the learned trial court.

9. Assailing the impugned judgments, learned counsel for the petitioner has submitted that it is a case of death of a child of 05 years, who was roaming on the middle of road without care and negligence of his guardians. The child suddenly came on the road and met an accident without any fault on the behalf of driver of the vehicle. 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 A.P.P. appearing for the State assisted by learned counsel for the O.P. No. 2 has vehemently opposed the contention 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, a 05 years child met with an accident and died. 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. It appears that 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 and 304-A of the I.P.C. against the present petitioner. In the evidence 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. The prime point is regarding contributory negligence of the guardians of the child, which is not applicable in criminal cases.

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