

(2019) 02 CHH CK 0121

Chhattisgarh High Court**Case No:** Criminal Revision No. 429 Of 2004

Dev Singh

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision: Feb. 8, 2019**Acts Referred:**

- Indian Penal Code, 1860 - Section 287, 304A

Hon'ble Judges: Vimla Singh Kapoor, J**Bench:** Single Bench**Advocate:** Shrawan Agrawal, I. Lakra**Final Decision:** Allowed

Judgement

Vimla Singh Kapoor, J

1. The accused/applicant has been held guilty by ACJM Durg under Section 287 and 304-A IPC by judgment dated 12.01.2004 passed in Criminal

Case No. 287/2002. In appeal, the findings so recorded have been maintained vide judgment impugned in this revision petition.

2. Case of the prosecution, in brief, is that on 15.07.2001 while cleaning and oiling the machine, the deceased namely Khorbhara Ram Sahu who was

working as fitter in DMC factory, Kumhari met with an accident and died on the spot. The accused/applicant was working in the same factory as

operator and it is alleged that the incident happened on account of his rash and negligent act in switching on the machine while the deceased was busy

in cleaning the same. After completion of investigation, charge-sheet was filed against the accused/applicant u/s 287 and 304-A IPC.

3. Learned Magistrate convicted the accused/applicant u/s 287 and 304-A IPC and sentenced him to undergo RI for four months and one year

respectively. Lower Appellate Court also affirmed the findings of the trial Court vide judgment impugned date 20.08.2004.

4. Conviction part is not being pressed by the counsel for the accused/applicant and his only submission before this Court is that looking to the incident

being quite old and also considering his detention period which come to 22 days, the sentence imposed on him may be reduced to the period already

undergone. State counsel however, supports the judgment impugned.

5. Having seen the evidence on record, it becomes clear that the accused/applicant being the operator in the factory was duty-bound to take full care

while switching on the machine as the switch board was fitted in the cabin where he use to sit and observe the operation of the plant. It has also come

in the evidence that the deceased was taking every care required for performing his job of fitter by wearing the helmet and shoes needed in the same.

Even the doctor conducting postmortem examination has stated that the deceased died on account of multiple fractures of the skull bone and brain

material being crushed. Cause of death, according to the doctor, was haemorrhage and shock vide report Ex. P-9. Thus, it is evident that the deceased

died on account of the rash and negligent act while operating the machine. His conviction u/s 287 and 304-A IPC, therefore, being based on the

evidence on record does not require any interference by this Court. It is thus maintained.

6. As regards sentence, keeping in mind that the incident had taken place about 18 years back and the accused/applicant has already remain inside for

about 22 days, this Court does not see any reason in again sending him to jail and disturb his well settled life at this stage. Accordingly, the sentence is

reduced to the period already undergone by the applicant.

7. Resultantly, the revision petition is hereby allowed in part with the modification in the judgment impugned as above.