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**(2023) 11 CHH CK 0051**

**Chhattisgarh High Court**

**Case No:** Criminal Revision No.478 Of 2016

Ravishankar @  
Ravikumar

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

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**Date of Decision:** Nov. 20, 2023

**Acts Referred:**

- Indian Penal Code, 1860 - Section 279, 304A, 337

**Hon'ble Judges:** Ramesh Sinha , CJ

**Bench:** Single Bench

**Advocate:** Rajkumar Pali, Avinash K. Mishra

**Final Decision:** Partly Allowed

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### **Judgement**

1. This criminal revision is directed against the judgment dated 18.05.2016 passed by the Sessions Judge, Balod, in Criminal Appeal No.198/2013,

affirming the judgment dated 07.12.2010 passed by the Judicial Magistrate First Class, Balod in Criminal Case No.19/2010, whereby the learned

JMFC has convicted the applicant for offence under Section 304-A of the IPC and sentenced to undergo RI for one year and fine of Rs.1000/-, in

default of payment of fine to further undergo RI for one month.

2. The prosecution case, in brief, is that on 02.12.2009 at about 1.30 P.M. when the applicant was reversing his Pickup TATA 207 bearing No. CG 07

CA 0575 dashed one old lady aged about 70 years namely Rambati Bai due to which, she sustained grievous injuries over her person and subsequently

during the course of her treatment she died in hospital. The matter was reported to the concerned police station and Crime No.249/2009 was

registered against the applicant for offence under Sections 279 and 337 of the IPC. After completion of investigation, charge-sheet was filed before

the competent Court against the applicant.

3. The learned Judicial Magistrate First Class, Balod after appreciating oral and documentary evidence available on record vide judgment dated

07.12.2010 convicted the applicant for offence under Section 304-A of the IPC and sentenced him as mentioned in opening paragraph of this order.

4. Feeling aggrieved with the said judgment, the applicant has filed criminal appeal before the Sessions Judge, Balod. The Sessions Judge by the

impugned judgment dated 18.05.2016 affirmed the conviction and sentence passed by the JMFC, Balod. Hence, this criminal revision.

5. Learned counsel for the applicant would submit that the judgment of the trial Court is bad in law as well as on facts. The learned trial Court ought

not to have convicted and sentenced the applicant and ought to have given the benefit of doubt since the evidence submitted by the prosecution is very

shaky and unbelievable. Both the Courts below failed to appreciate the evidence and documents available on record. He would further submit that the

learned trial Court has failed to consider the evidence of Nand Kumar (PW-1) in its entirety wherein he had specifically stated in para 3 of his

evidence that the applicant was reversing his vehicle very slowly which itself shows that the applicant had not driven his vehicle rashly. He would also

submit that the learned Courts below failed to consider that there is no evidence on record that the accident occurred due to rash and negligent driving

of the vehicle by the applicant. Alternatively, he submits that the trial Court has awarded the sentence of RI for one year and fine of Rs.1000/- to the

applicant. Considering the age of the applicant and as he is facing criminal trial since 2009, learned counsel only emphasized that sentence may be

modified suitably by enhancing the fine amount as the applicant have already undergone 11 days of jail sentence. Therefore, the sentence already

undergone by him may be suffice to meet the ends of justice by enhancing the fine amount.

6. Mr.Avinash K. Mishra, learned Government Advocate appearing for the respondent/State, submits that both the Courts below have rightly

convicted and sentenced the applicant, in which no interference is called for.

7. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost

circumspection.

8. From perusal of the records, it transpires that the trial Court after considering the material available on record and evidence of the prosecution

witnesses, has convicted the applicant for offence under Section 304-A of the IPC and sentenced to undergo RI for one year and fine of Rs.1000/-. In

appeal preferred by the applicant, the appellate Court has maintained the conviction and sentence of the applicant. Considering the material available

on record and the evidence adduced by the prosecution, I am of the view that the trial Court and the appellate Court have not committed any illegality

or infirmity in convicting the applicant for offence under Section 304-A of the IPC.

9. Now considering the question of sentence. As the applicant is facing criminal trial since 2009 and thereafter more than 14 years has been elapsed,

considering the age of the applicant and further considering that the applicant has already undergone 11 days of jail sentence, there would be no useful

purpose to send the applicant again in jail as he has already suffered undergone sentence and also agony of criminal trial for so many years, that meets

the ends of justice. So this Court finds it appropriate to reduce the sentence from RI for one year under Section 304-A of the IPC to the period

already undergone by the applicant i.e. 11 days of jail sentence, however fine amount is enhanced from Rs.1000/- to Rs.30,000/- under Section 304-A

of the IPC. Enhanced fine amount shall be deposited by the applicant within a period of two months from today before the concerned trial Court and

the same shall be paid to legal heirs of deceased Rambati Bai in equal proportion if they are more than one. If the enhanced fine amount is not

deposited by the applicant within the stipulated time, he shall further undergo as has been ordered by the Judicial Magistrate First Class, Balod.

Ordered accordingly.

10. The criminal revision is partly allowed to the extent indicated herein-above.

11. Let a copy of this order and the original records be transmitted to the trial court concerned forthwith for necessary information and compliance.