

(2006) 01 JH CK 0017**Jharkhand High Court****Case No:** Criminal Revision No. 284 of 2005

Yakub Paul

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: Jan. 18, 2006**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 279, 304A

Citation: (2006) CriLJ 1880 : (2006) 1 JLJR 401 : (2006) 1 EastCriC 373 : (2006) 1 AIRJharR 620 : (2006) 2 ACC 740**Hon'ble Judges:** N. Dhinakar, C.J**Bench:** Single Bench**Advocate:** N.P. Thakur, for the Appellant;**Final Decision:** Dismissed**Judgement**

@JUDGMENTTAG-ORDER

N. Dhinakar, C.J.

The petitioner on being tried for the offence punishable under Sections 279, 304A I.P.C, was found guilty as charged and sentenced to six months and two years respectively with a direction that the sentences of imprisonment will run concurrently.

2. The petitioner aggrieved by the said order of conviction and sentence passed by the Judicial Magistrate, 1st class, Khunti, filed an appeal and the appellate Court confirmed the order of conviction and sentence passed by the trial Court by dismissing the said appeal. Hence, this present revision.

3. The petitioner was a driver and was driving his vehicle, Tata Sumo, at about 6.15 p.m. on 11-6-2001 on the National Highway No. 33, at that time the Informant, Thakur Prem Prakash Narayan, who was examined as P.W. 5 and his brother, Thakur Shiv Prakash Narayan, were returning to Ranchi in two separate motorcycles. While

they were at Edelhatu, the Tata Sumo driven by the petitioner dashed against the motorcycle in which Thakur Shiv Prakash Narayan was driving, as a result of which he suffered injury, he was taken to hospital where he was pronounced dead. One of the cyclists on the road suffered injury. According to the prosecution witnesses, P.Ws. 5,6 and 7, the petitioner, who was the driver of the vehicle, was driving his Tata Sumo in a rash and negligent manner at a. high speed and therefore, the occurrence had taken place. The Court below accepted the prosecution version and found the petitioner guilty and sentenced him as stated earlier.

4. Learned Counsel appearing for the petitioner submits that since the Motor Vehicle Inspector was not examined before the trial Court and as such, the trial Court ought to have acquitted the petitioner.

5. I am unable to accept the said contention. When a specific question was put to the counsel appearing for the petitioner whether he had taken a plea before the trial Court that the accident was on account of the mechanical defect of the vehicle, he came out with a clear answer that it was not the case of the petitioner that the occurrence took place on account of the mechanical defect of the vehicle, which the petitioner was driving, I, therefore find that non-examination of the Motor Vehicle Inspector has not caused prejudice to the case of the petitioner.

6. Learned Counsel appearing for the petitioner finally submits that the sentence of imprisonment of two years imposed upon the petitioner u/s 304A I.P.C. is too harsh and that since the petitioner is in custody for the past nine months, the sentence of imprisonment be reduced to the period already undergone by him.

7. I had given my anxious consideration to the plea of the counsel appearing for the petitioner. On the facts and circumstances of this case, I feel that the ends of justice will be met, if the sentence of Imprisonment of two years imposed upon the petitioner u/s 304-A, I.P.C. is reduced to the period of one year. Accordingly, while confirming the conviction and sentence imposed upon the petitioner u/s 279, I.P.C, I reduce the sentence of imprisonment of two years imposed upon him to one year u/s 304-A, I.P.C.

8. With the above modification in sentence, this revision is dismissed.