



2026:CGHC:20694

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRR No. 707 of 2016**

1 - Ganesh Ram S/o Lakshminarayan, Aged About 29 Years, Caste - Patel, R/o Village - Kotadabri, Police Station - Champa, Civil And Revenue District - Janjgir - Champa Chhattisgarh.

... Applicant**versus**

1 - State Of Chhattisgarh Through - District Magistrate / Station House Officer, Police Station - Uрга, District - Korba Chhattisgarh.

... Respondent

For Applicant : Mr. Pushpendra Kumar Patel, Advocate.

For Non-applicant/State : Ms. Aveleen Juneja, Panel Lawyer.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Order On Board****04.05.2026**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 19.07.2016 passed by the learned Sessions Judge, Korba, District-Korba (C.G.) in Criminal Appeal No. 57/2015, whereby the learned appellate Court has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Kartala, District-Korba vide judgment dated 01.10.2015 passed in Criminal Case No. 85/2015. The conviction and sentence of the applicant are as under:-

Conviction	Sentence
U/s 279 of IPC	Fine of Rs. 500/-, in default of payment of fine amount S.I. for 10 days.

U/s 304-A of IPC	S.I. for 06 months and fine of Rs. 1000/-, in default of payment of fine amount additional S.I. for 01 month.
U/s 3/181 of MV Act	Fine of Rs. 500/-, in default of payment of fine amount S.I. for 10 days.

(All the sentences were directed to run concurrently)

2. The brief facts of the case are that on 13.03.2015, at about 9:00 p.m., the appellant was riding a motorcycle bearing registration No. CG-11/AC-4219 towards Kota Dabri via the Barpali-Champa road, with Ku. Durga and Durgesh as pillion riders. Upon reaching village Kothari, due to the rash and negligent driving of the said motorcycle by the appellant, Kamla Bai, who was standing in front of her house, was hit by the appellant's motorcycle. As a result, she sustained injuries in the accident. On witnessing the accident, family members of Kamla Bai took her to B.D.M. Hospital, Champa, District Janjgir-Champa, where she succumbed to her injuries during treatment. With respect to the said incident, an offence was registered against the appellant at Police Station Urga. After completion of the investigation, the charge-sheet was filed before the learned Trial Court, which, upon trial, held the accused guilty.
3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 17 witnesses and exhibited 18 documents. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded innocence and false implication in the case.
4. Learned counsel for the applicant submits that he is not pressing the revision insofar as it relates to the conviction part of the judgment and would confine his arguments only to the sentence. He further submits that the incident is alleged to have taken place in the year 2015. More than 11 years have elapsed since then, presently the applicant is aged about 39 years, he has already remained in jail for about 11 days and he has no criminal antecedents, by considering all these aspects, it is

prayed that the applicant may be sentenced to the period already undergone by him in the interest of justice.

5. Per contra, learned counsel appearing for the State, supports the impugned judgments, opposed the arguments advanced on behalf of the counsel for applicant.
6. Heard learned counsel for the parties and perused the material on record including the impugned judgments.
7. Dr. Anita Shrivastava (PW-16), in her statement, opined that on external examination of the deceased, a lacerated wound measuring 2 x 1 cm was found on the occipital region of the head and the skull bone was found fractured. On internal examination, she found that the left temporal bone and the occipital bone of the skull were fractured and there was a collection of blood in the brain. She further opined that the cause of death of the deceased was coma resulting from the head injury. The death appeared to be accidental in nature.
8. Having gone through the material available on record and the evidence of the witnesses, namely Balram Miri (PW-1), Krishna Miri (PW-2), Bindu Miri (PW-3), Durga Patel (PW-4), Bhushanlal (PW-5), Resham Lal Miri (PW-6), Jamila Miri (PW-7), Shyamlal Miri (PW-8), Durgesh Patel (PW-9), Vishnu Lahre (PW-10), Chhotelal Miri (PW-11), Neelam Singh Jangde (PW-12), Laxmichand Patel (PW-13), R.G. Dewangan (PW-14), Afzal Khan (PW-15), Dr. Anita Shrivastava (PW-16) and Gajendra Kumar Soni (PW-17), the involvement of the accused/applicant in the crime in question stands proved beyond reasonable doubt. This Court does not find any illegality or infirmity in the findings recorded by both the Courts below with regard to the conviction of the applicant under Sections 279, 304-A of the IPC and Section 3/181 of Motor Vehicle Act, 1988.
9. As regards sentence, in the matter of **Mohammad Giasuddin v. State of Andhra Pradesh** reported in **(1977) 3 SCC 287**, Hon'ble Supreme Court has observed that if you are to punish a man retributively, you must injure him. If you are to reform

him, you must improve him and, men are not improved by injuries and held in para-9 as follows:

“9. Western jurists and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817 :

"The laws of England are written in blood". Alfieri has suggested : 'society prepares the crime, the criminal commits it'. George Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw : 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Jeffrey Streatfield : “If you are going to have anything to do with the criminal Courts, you should see for yourself the conditions under which prisoners serve their sentences.”

10. In the light of the decision of the Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the fact that maximum sentence imposed upon the applicant is 06 months simple imprisonment, out of which he has already served the jail sentence about 11 days, no criminal antecedent of the applicant is recorded in the arrest memo (Ex-P/13), he has studied upto 4th class and works as a labourer, the incident pertains to the year 2015 i.e., more than 11 years ago, this Court is of the opinion that no useful purpose would be served by sending him back to jail again, therefore, in the interest of

justice, it would be appropriate if the sentence imposed upon the applicant is reduced to the period already undergone by him.

- 11.** Accordingly, the conviction of the applicant under Sections 279, 304-A of the IPC and Section 3/181 of Motor Vehicle Act, 1988 is maintained, however, his jail sentence is reduced to the period already undergone by him, i.e., 11 days. The fine of Rs. 1000/- imposed by the trial Court under Section 304-A of the IPC is enhanced to Rs.10,000/- and in default thereof, S.I. for 03 months instead of 01 month. However, the fine amount and its default stipulation under Sections 279 of IPC and Section 3/181 of MV Act shall remain intact.
- 12.** Consequently, the revision is **allowed in part** to the extent indicated herein-above.
- 13.** The appellant is on bail. He need not surrender in this case. However, his bail bond shall remain in force for a period of six months in view of the provisions contained in Section 437-A of the CrPC.
- 14.** Record of the trial Court along with a copy of this judgment be sent back forthwith for compliance and necessary action, if any.

Sd/-
(Sanjay Kumar Jaiswal)
JUDGE