



2026:CGHC:10109

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRR No. 226 of 2017**

1 - Dubraj Kanwar S/o Shri Rameshwar Singh Kanwar Aged About 28 Years R/o Sonpuri, Thana- Balko, District Korba, Chhattisgarh.

... Applicant**versus**

1 - State Of Chhattisgarh Through District Magistrate, District Korba, Chhattisgarh.

... Respondent

For Applicant	:	Mr. Arvind Prasad, Adv. on behalf of Mr. Samir Singh, Advocate.
For Respondent/State	:	Ms. Sunita Manikpuri, G.A.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Order on board****26/02/2026**

1. The present revision petition has been filed under Section 397/401 of Cr.P.C., against the order dated 07.02.2017 passed by learned Additional Sessions Judge of Additional Judge, Katghora, District - Korba (C.G.) in Criminal Appeal No. 22/2013 affirming the judgment of conviction and order of sentence dated 17.09.2012 passed by the learned JMFC, Katghora, (C.G.), in Criminal Case No. 82/2008, whereby, the learned Judge has



convicted and sentenced the applicant as under:-

Conviction	Sentence
U/s 304 A of IPC	R.I. for 1 year with fine of Rs. 5,000/-, in default of payment of fine amount additional R.I. for 1 month.

2. Brief facts of the case were that on 02.01.2008, in between 8:00-9:00 am, Shashikant and Ramakant, sons of complainant Baldev Dhimar, had gone to graze goats near the MGR NTPC plant. At about 10:30 am, Ramakant (now deceased) drank water from a tap near the plant and returned to his goats, where his elder brother Shashikant was grazing goats. The driver of an unknown dumper, while driving rashly and negligently, caused an accident in which Ramakant, the younger son of the complainant, died. Based on the report, a crime was registered and investigation was carried out by the Darri Police Station. After due investigation, charge sheet was filed against the present applicant under Section 304-A of the IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 7 witnesses and exhibited 9 documents. The statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide judgment of conviction and order of sentence dated 17.09.2012, learned Judge has convicted



and sentenced the accused/applicant as mentioned in para-1 of this judgment. Aggrieved by the said judgment the applicant preferred an appeal before the Sessions Judge and vide judgment dated 07.02.2017 the appeal of the applicant has been rejected. Hence, the present revision.

5. Learned counsel for the applicant submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2008, and thereby more than 17 years have rolled by since then. The applicant has already served the jail sentence for 20 days (from 07.02.2017 to 27.02.2017) and the applicant is aged about 45 years at present, he has no criminal antecedent, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

6. Per contra, Learned Counsel appearing for the State/Respondent opposed the arguments advanced on behalf of the applicant and supported the impugned judgment of conviction and sentence.

7. Having gone through the material on record and the evidence of the witnesses Baldev (PW-1), Shashikant (PW-3), Dr. Antosh Kumar (PW-5) and Dhaniram Rathore (PW-7), establishes the involvement of the accused/applicant in the crime in



question. Thus, considering the oral and documentary evidence available on record, this Court does not see any illegality in the findings recorded by the trial Court as well as appellate Court as regards conviction of the applicant under Section 304-A of IPC.

8. 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 jurisprudence 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-culturisation. 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 Geoffrey 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."

9. In the light of the decision of the Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the facts that the incident took place in the year 2008, about 17 years ago, the applicant has already served the jail sentence of a total of 20 days, and at present appellant is aged about 45 years; he has no criminal antecedent, as per arrest memo he has studied upto 8th class and is a driver by profession, this court is of the opinion that the ends of justice would be served if he is sentenced to the period already undergone by him.

10. In the result the appeal is **allowed in part**. While maintaining the conviction of the appellant for the aforesaid offence, his jail sentence is reduced to the period already undergone by him i.e. a total of 20 days instead of R.I. for 1 year. However, the fine of Rs. 5,000/- imposed upon the appellant by the Trial Court is hereby enhanced to Rs. 15,000/-. In default of payment of the fine imposed/enhanced by this Court today, the applicant shall be liable to undergo R.I. for 3 months. If any amount has already been deposited towards the fine, the same



shall be adjusted in the amount of fine imposed/enhanced by this Court today.

11. The applicant is on bail. He need not to surrender in this case.

12. Let a certified copy of this order along with original record be transmitted forthwith to the trial Court concerned for information and necessary action, if any.

Sd/-
(Sanjay Kumar Jaiswal)
JUDGE

H.L. Sahu