



IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR ³

CRIMINAL REVISION NO. 108 OF 2003

APPLICANT

: Jaswant Sing Ahluwalia
S/o. Darbar Sing Ahluwalia
aged about 62 years, Occupation -
Retired Engineer, M F E B,
Resident of 27 Kholi, Indrasen
Nagar, Bilaspur, Distt : Bilaspur
(C G).

on.....
by Shri. A. Abdul. Waleh Advocate

Versus

NON D. R. (J)
NON APPLICANT

: State of Chhattisgarh through
Police Station - Civil line,
Distt : Bilaspur (C G).

CRIMINAL REVISION UNDER SECTION 397 READ WITH 401 OF
THE CODE OF CRIMINAL PROCEDURE

RECEIVED
2
EXK

आदेश पत्रक

Cr. R. 108/2003

मामला क्रमांक

सन 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>31.3.2003</u></p> <p>Applicant by Shri Ashok Dixit, Advocate.</p> <p>State by Shri Prafull Bharat, Panel Lawyer.</p> <p>Heard.</p> <p>The accused/applicant has preferred this criminal revision being aggrieved by the judgment and order passed by the learned First Additional District Judge, Bilaspur in Criminal Appeal No. 159/2002 confirming the judgment of conviction and sentence passed by the Judicial Magistrate First Class, Bilaspur in Criminal Case No. 63/2000 by which learned J.M.F.C. while holding guilty the accused/applicant under section 279 read with 337 of the I.P.C. imposed a fine of Rs.300/- for each of the injured persons which comes to Rs. 2100/- for seven injured persons.</p> <p>The relevant facts for the disposal of this criminal revision are that on 6th October, the accused/applicant was driving the vehicle No. M.P.Q. 6960 on Ring road Bilaspur rash and negligently and hit Tonga in which Manisha Shukla, Ku. Savita, Vedeem, Sudha Shukla, Ramratan, Kamla Mudliyar and Manish Shukla were traveling. In the said accident Kamla Mudliyar and Manish Shukla received grievous injuries and other received simple injuries. Upon receiving the report of the incident the police registered the case and after investigation filed the challan against the accused/applicant.</p>	

आदेश पत्रक

मामला क्रमांक

S. R. 108/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>After recording the evidence and hearing the Public Prosecutor as well as counsel for the accused/applicant, learned Judicial Magistrate First Class convicted the accused/applicant as mentioned above. Appeal against the said judgment has been dismissed by the learned Additional Sessions Judge.</p> <p>Learned counsel argued that there is no evidence on record which shows that the accused/applicant was driving the vehicle at the relevant time while referring the statement of R.B. Tiwari DW-1, who has said that the accused/applicant was not driving the vehicle.</p> <p>I have heard learned counsel for both the parties, perused the evidence and the judgment of the trial Court and the appellate Court.</p> <p>Manisha Shukla (PW 3) who was traveling in the Tonga has specifically said that on the date of accident she was traveling in Tonga along with her mother and sister namely Sudha Shukla and Savita respectively, at about 2 p.m. in the way a matador came from the opposite side which was being driven by the accused and he hit the vehicle in to Tonga. Sudha Shukla (PW2) and Kamla Mudliyar (PW1) have also stated that the vehicle was being driven by the accused -Sardarji. Even Ram Narayan (PW4) has also stated that the vehicle was being driven by the accused. R. B. Tiwari (DW 1) has stated that the vehicle was being driven by Ram Narayan but Ram</p>	

आदेश पत्रक

मामला क्रमांक 6. Rev. 108/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>Narayan himself has said that he was sitting behind, and the accused/applicant was driving the vehicle, and more over the injured witnesses have stated that Sardarji was driving the vehicle. Therefore on this count there is no infirmity in the judgment of the trial Court and appellate Court and the findings are based on the evidence available on record and this Court has no reason to disturb the concurrent findings of both the Courts below.</p> <p>Now coming to the question as to the point whether a consolidated fine as one offence should be imposed or for each of the injured persons, it is appropriate to see that Section 71 of the Indian Penal Code lays down that "where anything which is an offence is made-up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided. In view of this only one fine amount can be imposed, not for each injured persons. Therefore, on this point the finding of the trial Court and the first appellate Court is not in accordance with law.</p> <p>The offence under section 337 prescribes a maximum fine of Rs. 500/- and the offence under section 279 prescribes a maximum fine of Rs.1000/-. In the result, while maintaining the judgment of conviction, the sentence of fine from Rs. 300/- for each of the injured</p>	

