

HIGH COURT OF MADHYA PRADESH JABALPUR**Criminal Revision No.1793/2010****Khuman Singh****Vs.****State of Madhya Pradesh**

Present : Hon'ble Shri Justice N.K. Gupta.

Name of counsel for the parties:*Shri Y.K. Gupta, Advocate for the applicant.**Shri G.S. Thakur, Panel Lawyer for the respondent/State.*

ORDER*(Passed on 28th day of June, 2011)*

The applicant has preferred this revision against the judgment dated 21.10.2010 passed by Additional Judge to First Additional Sessions Judge, Raisen in Criminal Appeal No.130/2010 by which the appeal directed by the applicant against the judgment dated 9.5.2005 in Criminal Case No.51/2004 by Chief Judicial Magistrate, Raisen was dismissed. The applicant was convicted for the offences punishable under Sections 279 & 304-A of IPC by the trial Court by aforesaid judgment. He was sentenced for 1½ years R.I. for the offence punishable under Section 304-A of IPC, whereas no separate sentence was awarded for the offence punishable under Section 279 of IPC.

2. Prosecution story in short is that on 15.12.2003 at about 9:00 P.M. when the complainant Madan Lal was visiting a betel shop at Raisen near Chopra pond, the applicant brought a tractor trolley in a rash and negligent manner, dashed the victim Gajraj and passed over the tractor on the head of the victim Gajraj, due to which he succumbed at the spot. The complainant Madan Lal chased the applicant with the help of motorcycle driven by Vishnu Rathore and the applicant was stopped near a Saw Mill. The complainant Madan Lal inquired the name of the applicant and then lodged an FIR against him. The police Kotwali, Raisen had registered the case against the applicant and after due investigation, challan was filed before C.J.M. Raisen.

3. The applicant abjured his guilt. He did not take any specific defence. Learned Chief Judicial Magistrate after considering the evidence adduced by the parties, convicted and sentenced the applicant as mentioned above, whereas the appeal of the applicant was dismissed *in toto*.

4. I have heard the learned counsel for both the parties at length.

5. Learned counsel for the applicant submits that the applicant does not want to challenge the conviction directed against him, but he prays that the sentence may be reduced, which he has already undergone in the custody. The applicant is

in custody for more than eight months. He has faced the trial, appeal and this revision since the year 2004. He is a first offender. No such crime has been done by the applicant in past. Learned counsel for the applicant has placed his reliance on the order passed by the Hon'ble Apex Court in case of “**Sukhdev Singh Vs. State of Punjab**” [(1982) 2 SCC 439] in which the Hon'ble Apex Court has reduced the sentence of the accused for the offence under Section 304-A of IPC to the period of 4½ months with enhancement of fine to Rs.10,000/-.

6. Learned Panel Lawyer opposes the request. He submits that the applicant did not stop the vehicle and the said vehicle passed over the head of the deceased Gajraj Singh, therefore, a severe sentence may be directed.

7. At present, it is clear that the applicant remained in the custody for more than eight months out of the sentence imposed upon him. He has faced the trial, appeal and this revision since the year 2004 i.e. for more than seven years. Under these circumstances, by considering the over all facts and circumstances and also in light of the order passed by the Hon'ble Apex Court in case of Sukhdev Singh (Supra), it would be proper that the sentence imposed upon the applicant may be reduced to the period for which he has already undergone in the custody and fine amount may be enhanced.

8. Consequently, the criminal revision filed by the applicant is hereby partly allowed. The conviction directed by both the Courts below is hereby maintained, whereas the jail sentence is reduced to the period, which he has already undergone in the custody. However, the fine amount is enhanced to sum of Rs.7,000/- (Rupees Seven thousand only). The applicant is directed to deposit the fine amount before the trial Court within two months from today. In default of payment of fine amount, he shall undergo for three months R.I. The legal heirs of the deceased Gajraj shall get a sum of Rs.5,000/- (Rupees Five thousand only) as an additional compensation out of the fine amount.

9. At present, the applicant is in jail. He be released forthwith if he is not required in any other case, so that he may comply the aforesaid directions.

(N.K. GUPTA)
JUDGE
28.06.2011