

(2018) 04 CHH CK 0122
In the Chhattisgarh High Court
Case No : CRR No. 446 of 2005

Aditya Chopra

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 11-04-2018

Acts Referred:

Indian Penal Code, 1860 — Section 304A
Code of Criminal Procedure, 1973 — Section 437A

Citation : (2018) 04 CHH CK 0122

Hon'ble Judges : RAM PRASANNA SHARMA, J

Bench : Single Bench

Advocate : Raja Sharma, Bhaskar Payashi

Final Decision : Allowed

Judgement

1. This revision is preferred against the judgment dated 04.10.2005 passed by the Sessions Judge, Sessions Division, Raipur in Criminal Appeal

No.156/2005, wherein the said Court confirmed the judgment of conviction and order of sentence passed by the Judicial Magistrate, 1st Class,

Gariyaband in Criminal Case No.208/2002 convicting the revisioner for offence under Section 304-A of IPC, 1860 and sentenced to RI for 1 year and

fine of Rs.1,500/- with default stipulation.

2. As per the prosecution case, the revisioner by driving negligently a vehicle Swaraj Mazda bearing Registration No.MP-23-0045 dashed one Gokul

Sahu on 07.12.2000 near Village Parsara and caused his death.

3. To substitute the charge, the prosecution has examined as many as 8 witnesses. Omprakash (PW-2) deposed that the vehicle was driven by the

revisioner at the time of incident and he dashed Gokul Sahu, but in his cross examination, he stated that when he heard noise then only he knew about

the incident. He further deposed that if the deceased Gokul Sahu would have moved here and there in the road, he is not having knowledge of the same. From the entire evidence of this witness, it is not clear that he has really seen the incident from beginning, therefore, it is difficult to hold against the revisioner on the basis of statement of this witness. Govind (PW-6) deposed that he is not aware as to who had driven the vehicle at the time of incident. Gopal (PW-7) deposed in para 4 that the vehicle was driven straightly and the driver has not driven the said vehicle negligently. Bhushanram Sahu (PW-8) deposed in para 3 that he has not seen the incident and he reached to the spot after the incident. He further deposed that what is stated by him is hearsay. He has admitted that number of the vehicle is not known to him and he has not seen the revisioner driving the vehicle. From the evidence of all these witnesses, it is not established that the revisioner was driving the vehicle in haste or with uncontrolled speed. It is also difficult to hold that the vehicle was driven beyond care. It is not the case that the vehicle left the road or moved in jig jag way.

4. On an overall assessment of the evidence, it would not be appropriate for this Court to hold that the vehicle was either driven rashly or driven negligently by the revisioner at the time of incident. The prosecution is under obligation to prove beyond shadow of doubt that the death is caused due to rash and negligent, but that is not sufficiently proved. The finding arrived at by the First Appellate Court is not sustainable. The revision is allowed.

The appellant is acquitted of the charge under Section 304-A of IPC and his conviction and sentence is hereby set aside.

5. The revisioner is on bail. Surety and personal bonds earlier furnished at the time of suspension of sentence shall remain operative for a period of 6 months in view of the provisions of Section 437-A of the Cr.P.C. The revisioner shall appear before the Higher Court as and when required.