
(2013) 01 CHH CK 0022
In the Chhattisgarh High Court
Case No : Criminal Revision No. 640 of 2003

Kaushal Prasad

APPELLANT

Vs

State of Chhattisgarh

RESPONDENT

Date of Decision : 15-01-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 304A

Citation : (2013) 3 ACC 300 : (2013) 3 BLJ 225 : (2013) 2 CGLJ 106 : (2013) CriLJ 1653

Hon'ble Judges : Pritinker Diwaker, J

Bench : Division Bench

Advocate : Ashutosh Shukla, for the Appellant; N. Naha Roy, PL, for the Respondent

Judgement

Pritinker Diwaker, J.—This revision is directed against the judgment and order dated 23-12-2003 passed by Additional Sessions Judge, Janjgir in Criminal Appeal No. 114/1998 affirming the judgment and order dated 28-4-1998 passed by Judicial Magistrate First Class, Janjgir in Criminal Case No. 253/1994 convicting the accused/applicant u/s 304-A, IPC and sentencing him to undergo RI for six months and pay fine of Rs. 1000/-, in default of payment of fine to further undergo SI for one month. Facts of the case in brief are that on 22-3-1994 FIR Ex. P-2 was lodged by Punudas (PW-3) alleging that on that day when Maituram Gond was exploding rocks in the mine under the lease granted to Punudas by virtue of being deployed by the accused applicant, he met with an accident. Based on this report, offence u/s 304-A, IPC was registered against the applicant and post mortem examination on the body of deceased was conducted on 22-3-1994 itself vide Ex. P-5 by Dr. S.R. Tharwani (PW-11) and according to him cause of death was shock and external and internal haemorrhage due to the injury sustained by him. After completion of investigation, charge-sheet was filed on 7-5-1994 for the offence u/s 304-A, IPC.

2. In support of its case the prosecution has examined 12 witnesses. Statement

of the accused/applicant was also recorded u/s 313 of the Code of Criminal Procedure in which he denied the charge levelled against him and pleaded his innocence and false implication in the case.

3. After hearing the parties, the trial Court by its judgment dated 28-4-1998 convicted and sentenced the accused/applicant as mentioned above which in appeal has been confirmed by the lower appellate Court by the judgment under challenge. Hence this revision.

4. Heard counsel for the parties and perused the material available on record.

5. Counsel for the accused/applicant submits that he is not pressing this revision on merits and would confine his argument to the sentence part of the judgment impugned only. He submits that the applicant has already remained in jail for twenty days, that the incident had taken place about 12 years back, that no criminal antecedent is there against him, that the applicant by now is a middle aged person of about 40 years, that the fine amount imposed by the Courts below has already been deposited and thus keeping in view all these things, sentence imposed on him may be reduced to the period already undergone.

6. On the other hand, counsel for the respondent/State though supports the judgment impugned, he has no serious objection to the submission regarding sentence made by the counsel for the applicant.

7. Heard counsel for the parties and perused the material available on record.

8. Punudas (PW-3) has stated that he knew the accused/applicant but not the deceased. He has stated that on the date of incident after coming to know that on account of blasting in the mines one person had died, he had gone there and seen that the deceased had sustained injury caused by explosive. In cross-examination, this witness has clarified that mine was given to him on lease by the Government but the execution work was being done by the accused/applicant. Sundarlal (PW-1) the witness present on the site at the relevant time has described the manner in which the accident had taken place. Kunjram (PW-2) is the witness who was working in the mine at time of occurrence. He has also stated that accused/applicant had taken contract of the mine and that he was also working there along with other persons. According to this witness, while putting the explosive, the accident had taken place as a result of which Maituram Gond died. Siyaram (PW-4) is the witness to inquest Ex. P-3. Chaitram (PW-9) is the witness who too has described the manner in which the accident had taken place and stated that deceased was deployed by the accused/applicant in the mine and Punudas (PW-3) was not present. N. R. Rathore (PW-10) is the investigating officer who has duly supported the case of the prosecution.

9. Having thus gone through the evidence available on record, this Court is of the considered opinion that the findings recorded by both the Courts below convicting the applicant u/s 304-A, IPC are well founded and that being so they are not required to be interfered with.

10. As regards quantum of sentence, keeping in view the fact that the applicant has already remained in jail for twenty days, that the incident had taken place about 12 years back, that no criminal antecedent is there against him, that the applicant by now is a middle aged person of about 40 years, that the fine amount imposed by the Courts below has already been deposited, this Court is of the opinion that it would be in the interest of justice if the sentence imposed on the applicant is reduced to the period already undergone by him. The applicant shall however be required to pay an additional fine of Rs. 15,000/- to be given to the dependents/family members of the deceased. This order would be available to the applicant only after he deposits the fine amount as directed by this Court. In the result, the revision is partly allowed. Conviction u/s 304-A, IPC is maintained and the sentence imposed under the Section is reduced to the period already undergone by the applicant. Additional fine amount of Rs. 15,000/- would be deposited by the applicant in the Court below to be paid to the dependents/family members of the deceased. It is again clarified that benefit of this order will be subjected to deposit of fine imposed by this Court. Applicant is on bail. Bail bonds discharged.