

(2)

COURT FEES EXEMPTED
BY NOTIFICATION NO. 9360/D-2870/XXI-
B/C.G./05 AS SPECIFIED IN SCHEDULE
I & II OF THE COURT FEES ACT 1870

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CR.M.P. NO. 719 /2013

Single Bench

APPELLANT :

The State of Chhattisgarh
Through -District Magistrate,
Raipur (C.G.)

VERSUS

RESPONDENT :

Tarkeshwar Sharma,
S/o.- Vijay Sharma,
Aged about - 24 years
R/o.- Village Umariya
P.S. - Bemetara, District - Durg (C.G.)
Present Address - Katora Talab behind
P.W.D. Colony Civil Lines, Raipur

Crime No. - 339/2011
Police Station - Golbazar
District - Raipur

R. No. 719/13
Presented by Shri. S. K. Gupta
dated 1/8/13

APPLICATION FOR GRANT OF LEAVE TO APPEAL UNDER
SECTION 378(3) OF THE CODE OF CRIMINAL PROCEDURE
1973.

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Justice P. Sam Koshy

Cr. M. P. No. 719 of 2013

Petitioner

The State of Chhattisgarh

VERSUS

Respondent

Tarkeshwar Sharma

Shri Arun Singh, G.A. for the State/petitioner.
None for the respondent.

O R D E R

(04.02.2014)

By way of the instant petition the petitioner has challenged the judgment of acquittal dated 24.05.2013 passed by the Judicial Magistrate, First Class, Raipur in Criminal Case No. 684/2012.

2. Facts as per the prosecution case are that on 22.12.2011 at about 10 p.m. while respondent Tarkeshwar Sharma driving Tata Sumo bearing registration No. C.G. 02 1082 rashly and negligently, at Sastri Chowk, Raipur, met with an accident by dashing against victim Alamdar (PW-1) who was riding on his bicycle. As a result of the accident, the victim sustained injuries on his spine as well as other parts of his body for which he was hospitalized. Thereafter, a case was registered against the respondent under sections 279, 337 and 338 of IPC.

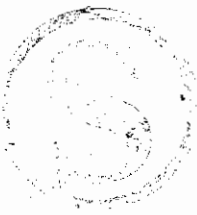
3. However, during pendency of the case before the trial Court, the respondent as well as the victim entered into a

compromise and accordingly the offences under sections 337 and 338 were compounded with the permission of the Court. Since offence under section 279 IPC was not compoundable, proceeding for the said offence continued before the trial Court.

4. While considering the case, the trial Court reached to the conclusion that from the evidences that have come on record and the evidence of victim Alamdar (PW-1) it is not established that on 22.12.2011 the respondent was driving his Tata Sumo rashly and negligently and therefore benefit of doubt must go in favour of the respondent. Accordingly, the Court below vide its judgment dated 24.05.2013 acquitted the respondent of the charge under section 279 of IPC.

5. It is this judgment dated 24.5.2013 passed by the trial Court in Criminal Case No. 684/2012 which the State intends to assail in the instant Cr.M.P.

6. On due consideration of the evidence of the victim Alamdar (PW-1) it is evidently clear that in his entire evidence before the Court below PW-1 has not stated anything in respect of the respondent having driven the Tata Sumo rashly and negligently for attracting the provisions of Section 279 of IPC and in the absence of such act of rash and negligent driving on the part of the respondent, the provisions of 279 IPC cannot be attracted. It is for this reason the trial Court reached to the conclusion that the prosecution has not been able to establish the fact that the respondent was driving the Tata Sumo rashly and negligently resulting the accident. In these circumstances, the appellant is



entitled to get the benefit of doubt.

7. For the foregoing reasons I do not find any merits in the instant Cr.M.P. and in the submissions of the State counsel. The Cr.M.P. is accordingly rejected.

Pm

Sd/-
P. Sam Koshy
Judge