

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1500 of 2017

State Of Chhattisgarh, Through Police Station Lundra, District Sarguja,
Chhattisgarh.

---- **Petitioner**

Versus

Manoj Tigga, S/o. Nikodin Tigga, Aged About 30 Years, R/o. Bachwar,
Shankargarh, Police Station Lundra, District Sarguja, Chhattisgarh.

---- **Respondent**

For Petitioner/State : Mr. Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

05.12.2017

Heard on application for grant of leave to appeal.

1. This petition is against the order dated 24.05.2017 passed by the learned Judicial Magistrate First Class, Ambikapur, in Criminal Case No.654/2013 whereby the respondent Manoj Tigga has been acquitted of the charges under Section 297 & 337 of Indian Penal Code.
2. As per the prosecution case, one Jasvir Singh had made a report that on 29.08.2008 a motorcycle bearing No.C.G.03 2490 which was driven by Manoj Tigga in rash & negligent manner had caused accident & injury to Avrar Ahmad Khan and on his report, he was arrested and was put to trial.
3. Learned trial Court after evaluating the witness of the injured Avrar Ahmad Khan (PW-1) came to a finding that after the incident, he lost his conscious and he suffered injuries on his right cheek, below the eye and suffered fracture of pelvic bone. In the cross-examination, he admitted the fact that he was suffering with Cataract and therefore he was not been able to see properly and

at the time of incident, he was going on right side of the road when the accident occurred. Thereby the admission was there with respect to the fact injured was at wrong side of road and also was not able to see properly. Likewise, the eye-witness Santosh Kumar (PW-4) had stated that after the incident happened, he reached to the spot and categorically stated that he has not seen the happening of the incident. The witness Manglesh (PW-5) who was said to be the eye-witness has become hostile and not supported the case of prosecution. In his statement and cross-examination, nothing has come out in the evidence to support the prosecution.

4. The finding of the trial Court on the basis of the aforesaid evidence leads to inference that at the time of incident, no evidence is placed before the Court that the accused was driving the vehicle in rash & negligent manner and caused the incident. Therefore, I do not find any reason to re-appreciated the evidence of the trial Court as *prima facie* facts & evidence on record do not show that it is perverse and gross deficiency have not been pointed out.
5. In view of the above, leave to appeal is dismissed. Furthermore, the application for leave to appeal is also delayed by 36 days and no sufficient reason has been stated for condoning the delay. In view of this also, no case is made out to allow the prayer for leave to appeal and condone the delay.
6. In a result, the petition is dismissed at motion stage itself.

Sd/-
(Goutam Bhaduri)
Judge