

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 529 of 2018**

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

---- Petitioner**Versus**

Salikram, S/o Surtiyan Lohar, Aged About 52 Years R/o Kaling Nagar, Gali No. 1, Police Station Gudiyari, District Raipur (C.G.)

---- Respondent

For State/ Petitioner : Mr. Suryakant Mishra, Panel Lawyer.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****11/09/2018**

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 216 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 25.03.2017 passed by Judicial Magistrate First Class, Raipur (C.G.) in Criminal Case No. 202/2013, wherein the said court acquitted the respondent for commission of offence under Sections 279

& 338 of IPC & Sections 56/192, 3/181 & 5/181 of Motor Vehicle Act, 1988.

5. The prosecution examined only two witnesses namely Akshat Tiwari (PW-1) & Dr. Shailendra Upadhyay (PW-2). Dr. Shailendra Upadhyay is medical expert who examined Akash Sharma and Akshat Tiwari when they brought for medical examination. The only witness of incident is Akshat Tiwari (PW-1). This witness deposed (Para 2) that one vehicle Tata Ace of white colour after overtaking one Scorpio vehicle, dashed his motor cycle, but this witness is not able to tell number of offending vehicle. In absence of number of offending vehicle, the respondent cannot be connected with crime in question.
6. In the present case, the offending vehicle as alleged is one Tata Ace bearing registration No. CG-04 J-8548, but no one examined to establish as to who is registered owner of the said vehicle. Again, no one is examined whether the vehicle is driven without having valid and effective driving license by the driver of the said vehicle and whether it was driven without insurance certificate. Owner of the vehicle was also not examined. In absence of evidence of owner of the vehicle, it is not established as to whom the vehicle was trusted to be brought on road.
7. In absence of evidence of owner of the vehicle and as Akshat Tiwari (PW-1) is not aware about number of the offending

vehicle, it is not established that the said vehicle was driven by the respondent.

8. Finding of the trial court is based on material placed before it and this Court has no reason to substitute contrary finding. Accordingly, application for grant of leave to appeal is rejected.
9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge