

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 960 of 2018**

- State Of Chhattisgarh Through District Magistrate, Balod, District Balod Chhattisgarh, District : Balod, Chhattisgarh

---- Petitioner**Versus**

- Sanjay Kumar Nishad S/o Late Ramdas Nishad Aged About 24 Years R/o Sanjari, Chowki Sanjari, P. S. Daundilohara, District Balod Chhattisgarh, District : Balod, Chhattisgarh

---- Respondent

For Petitioner/State	:	Shri Lav Sharma, Panel Lawyer
For Respondent	:	Shri B.P. Singh, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

29/10/2018

1. Heard on I.A.No.1/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, same is allowed and delay of 123 days in filing the petition is hereby condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (3) of the Cr.P.C.
4. The instant Cr.M.P. has been filed seeking leave to appeal against the judgment dated 19.9.2017, passed by the Judicial Magistrate First Class, Dallirajhara at Dondilohara, District Balod(CG) in Cr. Case No.29/2017, wherein the said Court has acquitted the respondent of the

charge under Sections 279 and 337 (two counts) of the I.P.C.

5. It is alleged that injured in the present case namely- Dulesh Bai and Bhujendra were coming on a motorcycle bearing registration No. CG 07AD 5340 and at the same time, the respondent dashed their vehicle by driving his motorcycle negligently bearing registration No.24 HF 2509.

6. The case of the prosecution is based on evidence of Dulesh Bai (PW3) and Bhujendra (PW5), who were produced before the trial Court as eye-witnesses. Dulesh Bai (PW3) admitted (para 11) that the respondent was driving the vehicle in common speed whereas, Bhujendra (PW5) deposed (para 7) that he is not aware about the fact in what manner the respondent was driving his motorcycle.

7. For establishing the charge under Sections 279 and 337 of the IPC, it has to be established that respondent was driving the vehicle rashly and negligently, but the same is not established by the cogent evidence. The trial Court discussed the entire evidence and in its true perspective and this Court has no reason to interfere with the finding recorded by the trial Court. It is not a case where the respondent should be called for full consideration of the case. Accordingly, the prayer for leave to appeal is rejected.

8. Consequently, Cr.M.P. stands dismissed. **Sd/-**

(Ram Prasanna Sharma)

Judge

