

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1020 of 2018**

State Of Chhattisgarh, Through District Magistrate , Distt.
Ambikapur, Surguja Chhattisgarh

---- **Petitioner****Versus**

Hitesh Goyal @ Vikki, S/o. Purushottam Goyal, Aged about 30
years, R/o. Vishrampur, Present R/o. Old bus stand, Ambikapur,
PS Ambikapur Distt. Surguja (CG)

---- **Respondent**

For the Petitioner/State : Ms. K. Tripti Rao, Panel Lawyer
For the respondent : Shri C. Jayant K Rao, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

06.9.2018.

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 37 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This appeal has been preferred against judgment of acquittal dated 25.11.2017 passed by Judicial Magistrate First Class, Ambikapur Distt. Surguja (CG) in Criminal Case No.1403/2012 wherein the said Court acquitted the respondent of the charges under Sections 279 and 338 of the Indian Penal Code, 1860.

5. The respondent was charge sheeted for commission of offence under Sections 279 & 338 IPC for causing grievous injury to one Pradeep Rai by driving Santo Car bearing registration No.CG 15 B/2017 negligently on 13.6.2012 at 21.00 hours at Deviganj Road, Ambikapur.

6. As per the case of the prosecution, the respondent was driving the vehicle as mentioned above negligently which caused grievous injury to Pradeep Rai.

7. In the present case, date of incident is 13.6.2012 while the FIR is lodged on 20.6.2012. The FIR has been lodged by victim Pradeep Rai but he did not explain the reason for delay in lodging the FIR. As per the version of this witness in examination in chief, the respondent was the driver of the offending vehicle at the time of the accident but in his cross-examination he deposed that he had informed his friend regarding the number of the offending vehicle. He further deposed that he also informed his friend regarding identity of the driver but the version of this witness is not stable as to whether he has seen the number of the vehicle only or whether he had the occasion to see the person who was driving the offending vehicle. In absence of any explanation regarding delay in lodging the FIR, the story of the prosecution is under cloud as to whether the respondent was driving the offending vehicle at the time of the incident and if it was the respondent, who was driving the vehicle, then why the report was not lodged on the same day.

8. Ramadhar Rai (PW-2) is a person to whom the matter was informed immediately after the incident. Dilip Rai (PW-3) is also a hearsay witness to whom his brother has informed about the incident. Vijay Narayan Shrivastava (PW-4) deposed that the injured person Pradeep Rai told him that he sustained injury but he did not state as to how the injuries were sustained. Rest of the witnesses are related to investigation after registration of FIR.

9. Looking to the evidence and its entirety, the trial Court opined that the act of negligent driving of the respondent is not established. The trial Court based its conclusion on the evidence of complainant and others and at the same time concluded that the victim was crossing the road at the time of the incident and it is also under cloud whether he took standard of care while crossing the road. The finding of the trial court is on proper marsheling of the evidence and this court has no reason to interfere with the finding of the trial Court.

10. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE