

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1801 of 2018**

State of Chhattisgarh, Through: Police Station- Sanna, District-
Jashpur (C.G.)

---- **Petitioner**

Versus

Santosh Gupta, S/o Late Shri Bechu Prasad Gupta, Aged About 38
Years, R/o Village Chatakpur, Police Station- Sanna, District-
Jashpur (C.G.)

---- **Respondent**

For State/ Petitioner : Mr. Lav Sharma, PL.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

13/11/2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition which is supported with an affidavit of Smt. Padamshri Tanwar.
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 58 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 09.03.2018 passed by Special Judge (Electricity Act, 2003), Jashpur (C.G.) in Special Case No. 02/2016, wherein the said court

acquitted the respondent for commission of offence under Section 304-A of IPC and Section 135 of the Electricity Act, 2003.

5. As per the prosecution case, on 13.07.2015 at about 8:30 a.m. at village- Chatakpur, the respondent by fixing wooden pole in his new home attached the electric wire from the said pole and negligently extending the electric wire over the field of one Budhram passed the electricity and due to that one Munsigyar got entangled in the electric wire and due to electrocution, he died. The respondent also by illegal connection of electricity wire used 4 unit of electricity and caused financial loss to the Power Distribution Company. The matter was investigated, the respondent was charge-sheeted and after completion of trial, he was acquitted as mentioned above.
6. To substantiate the charge, the prosecution examined as many as 17 witnesses. No one is stating about real incident. Material witnesses have not supported version of the prosecution as to what was really happened before electrocution of said Budhram. Though, Junior Engineer-Revatram Sahu (PW-17) deposed that the respondent transmitted electric wire from his old house to new house, but this witness is also not the witness of incident. He reached the spot after the incident and submitted information regarding electric connection to one Bechu Prasad Sao by Power Distribution Company.

7. From statement of this witness (Para 5), it is clear that on previous night, there was heavy rain and massive waves due to which electric wire of shorten area was broken. From the entire evidence, it is not clear that the incident took place due to negligence of the respondent. If any electric wire is broken due to storm or rain, the same cannot be treated as negligence on the part of the respondent.
8. The trial court elaborately discussed the entire evidence adduced by the prosecution and came to conclusion that negligence on the part of the respondent and illegal consumption of electricity by him are not established. After reassessing the entire record, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. 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