

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1288 of 2017

State Of Chhattisgarh Through District Magistrate Raipur,
Chhattisgarh,

---- Appellant

Versus

Narendra Wadekar S/o Babbu Wadekar, Aged About 27 Years R/o
Sant Ravidas Nagar, Camp-2, Bhilai Power House, Police Station
Chhaoni, District Durg, Chhattisgarh,

---- Respondent

For State/appellant- Shri Ashish Shukla, Dy.A.G.
For respondent-Shri K.K. Dewangan, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

02/04/2018

1. Learned counsel for the respondent submits that he do not object to the application for condonation of delay in filing the petition.
2. Considering this fact and for the reasons stated in the application, delay in filing the petition is condoned.
3. Heard on application for grant of leave to appeal.
4. This petition is against the order of acquittal dated 30/03/2017 passed by the JMFC, Raipur in Criminal Case No.12955/2014.
5. Case of the prosecution, in brief, is that on 21/06/2014 victim Vikash Sharma made a report that he alongwith his friend Sachin Suryavanshi and Imran had went to Rajim and were coming from Rajim to Raipur. He alongwith Sachin were coming in TVS Jupiter bearing number CG 04 KY 9734 and he was driving the vehicle, while they reached near village Nimora, at that time one Tata S bearing number CG 07 CA 8134 being driven in a rash and negligent manner dashed the motorcycle from behind and caused the accident whereby complainant Vikash Sharma and

Sachin PW-3 sustained injuries and Sachin also sustained fracture. After investigation charge sheet was filed and after trial the learned court below acquitted the respondent.

6. Learned State counsel would submit that court below has failed to appreciate the evidence in its proper perspective and came to wrong finding of fact, thereby the acquittal. He further submits that statement of Vikash Sharma PW-2 and Sachin PW-3 injured would show that vehicle was driven in a rash and negligent manner whereby offence was committed.

7. Learned counsel for the respondent opposes the same.

8. The accused abjured his guilt and lead the evidence of one Ravindra Wadekar. He stated that while they were coming in vehicle three persons in the TVS motorcyle were going in front of them and they appeared to be in drunk condition and when they could not control their vehicle on the breaker they were thrown away, thereby incident happened. Statement of Vikash Sharma PW-2 and Sachin PW-3 would show that they have stated that vehicle dashed from behind. No averments were made that the offending vehicle was driven in a rash and negligent manner which can be presumed since vehicle wherein victim was travelling was ahead they could not have guessed the manner of driving a vehicle behind them. The prosecution evidence is silent about the fact that how the offending vehicle was being driven. Perused the statement of PW-2 and PW-3. They have stated that when they applied the brakes ahead of the breaker they were dashed from behind. In the result, prima facie facts do not show that prosecution was able to substantiate that offending vehicle was being driven in a rash and negligent manner. Considering the statement of the witnesses PW-2 and PW-3, it is not a case where re-appreciation of the evidence is called for. Consequently, no

ground exists to allow the application for grant of leave to appeal under Section 378(3) of Cr.P.C.

9. Accordingly, the petition has no merit and it is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE

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