

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 32 of 2012**

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

---- Appellant

Versus

Ramesh Kumar S/o Danilal Shrivastava, Aged about 39 years R/o Ward No. 29,
Sonarpara Rajnandgaon (C.G.)

---- Respondent

For Appellant	:	Mr. Alok Nigam, Govt. Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

19/07/2019

1. This acquittal appeal is preferred under Section 378 (3) of the Cr.P.C against the judgment dated 15/02/2011 passed in Criminal Case No. 739/2009 passed by the Court of Judicial Magistrate First Class, Rajanandgaon (C.G.) whereby the Appellant has been acquitted from the charge punishable under Sections 297, 337 & 304-A of the IPC.
2. Facts of the case are that on 05/06/2003 at about 7:30 pm, Deceased Gajendra Bahadur was going towards Amgaon with his wife Usha Singh (PW5) on his motorcycle bearing registration No. CG07 F 5626. Subsequently, the accused/Respondent Ramesh who was driving Marshal Jeep bearing registration No. CG08 5026, dashed them, due to which Gajendra died on the spot and his wife received injuries. The matter was reported. After investigation, a charge-sheet was filed.

The learned trial Court vide impugned judgment dated 15/02/2011 has acquitted the respondent from the charges on the ground that Statement of Usha Singh (PW5) is not reliable.

3. Counsel for the Appellant/ State submits that Usha Bai (PW5) in her statement has categorically stated that the accident was occurred by a Marshal vehicle which was being driven by the accused/Respondent in a rash and negligent manner. In spite of this fact, the trial Court has acquitted the respondent/accused. Thus, the finding of the trial Court is contrary to the facts and legal aspect of the matter.
4. None for the Respondent.
5. I have heard counsel for the Appellant/State and perused the record minutely.
6. From the perusal of the record of the trial Court, apart from Usha Singh (PW5) none of the witness has supported the case of the prosecution. Usha Singh (PW5) in her examination in chief has stated that the accident occurred by a Marshal which was being driven by the Respondent/accused. It was also deposed by her that at the time of accident, the vehicle was driven rashly and negligently, but in her statement recorded under Section 161 of the Cr.P.C i.e. Ex.D-1, it was stated by her that she came to know later that the vehicle number is CG08 5026 and the name of the driver is Ramesh Kumar. Thus, it is clear that at the time of incident neither Usha Singh(PW5) known the vehicle number nor she had the knowledge about the driver. But, before the Court while recording her evidence, she has disclosed

about the driver and vehicle number, therefore, her statement is not trustworthy. Thus, the trial Court has rightly arrived to the conclusion and acquitted the respondent/Accused.

7. Accordingly, I do not find any merit in this case. The same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge