

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 522 of 2019**

State of Chhattisgarh: Through Police Station- Lakhanpur,
District- Surguja (C.G.) **---- Petitioner**

Versus

Maqsood Ahmed, S/o - Aneef Ahmed, Aged about - 32 years, R/o-
Rudrapur, Police Station- Sorwa, District- Allahabad (U.P.)

---- Respondent

For State/Petitioner : Shri A.N. Bhakta, Dy. A.G.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****07/05/2019**

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
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 41 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 the judgment dated 1st October, 2018 in Criminal Case No. 3321/2009 passed by Judicial Magistrate First Class, Ambikapur, District- Surguja (C.G.) wherein the said Court acquitted the respondent for charge under Section 279, 337 and 304-A of IPC, 1860 for driving truck bearing registration No. UP 70 AT 5545 rashly and negligently and causing death of one Ram Dev on 24th May, 2009 at about 13:30 PM at Juna Lakhanpur, District- Surguja (C.G.).

5. To substantiate the charge prosecution examined as many as nine witnesses. Tiharo Bai (PW-4) is claiming to be an eyewitness to the incident. In her earlier statement recorded under Section 161 of Cr.P.C, she did not depose who was driving the vehicle at the time of incident. There is improvement in the version of her statement before the trial Court. There is no explanation as to why the said statement was not made during investigation, therefore, it is not clear that respondent was driving the vehicle at the time of incident.
6. Truck bearing registration number as mentioned above is seized. In the present case, the seizure of truck is not sufficient to charge of negligent or rash driving. The prosecution was under obligation to establish the charge beyond shadow of doubt but from the statement of Tiharo Bai (PW-4) charges levelled against the respondent is not established. The trial Court recorded a finding that it is not Tiharo Bai (PW-4) who lodged complaint in the police station.
7. The trial court has elaborately discussed the entire evidence and after reassessing the same, 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.
8. Consequently, the petition stands dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge