

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 863 of 2019**

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

Versus

Mutul @ Ramjeet, S/o Patwari Ram, Aged About 35 Years, R/o
Kotbaharapara, Kalyanpur, Police Station - Gandhinagar, District-
Surguja (C.G.) **---- Respondent**

For State/ Petitioner : Mr. A.N. Bhakta, Dy. A.G.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****10/05/2019**

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 146 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 20.07.2018 passed by Chief Judicial Magistrate, Ambikapur, District- Surguja (C.G.) in Criminal Case No. 2238/2011, wherein the said court acquitted the respondent for commission of offence under Section 304A of IPC, 1860 and Sections 3/181 & 146/196 of Motor Vehicle Act, 1988.

5. Patar Sai (PW-1) though deposed before the trial court that he is eyewitness account to the incident, but in his earlier statement recorded under Section 161 of Cr.P.C., he stated that he was at home while incident took place, therefore, the trial court opined that presence of this witness on the spot is under cloud. Sukhram (PW-2) is not able to say as to how the incident occurred.
6. Chander Ram (PW-3) deposed before the trial court that Hirmen Bai was on left side of the road, but at the time of incident, she was found in right side of the road. From his statement, it is not clear as to when Hirmen Bai crossed the road. If she crossed suddenly, there was no occasion for driver to control the vehicle instantly and avoid the incident, therefore, the trial court opined that rashness or negligence on the part of driver is not established.
7. The trial court has elaborately discussed the entire evidence and recorded finding of acquittal. After reassessing the same, this Court has no reason to substitute 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 at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge