

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No.1658 of 2019

State of Chhattisgarh through Police Station Korar, District Uttar Bastar Kanker, Chhattisgarh

---- Petitioner

versus

Mohan Yadav, S/o Farsuram Yadav, aged about 38 years, Resident of Village Kanapod, Police Station Charama, District Uttar Bastar Kanker, Chhattisgarh

--- Respondent

For Petitioner	:	Shri Alok Nigam, Government Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

21.8.2019

1. Heard on I.A. No.1 for condonation of delay of 95 days in filing the instant Cr.M.P. On due consideration of the reasons mentioned in the I.A., it is allowed and delay is condoned.
2. Heard on admission. Also perused the impugned judgment, statements of witnesses and other documents available.
3. Vide judgment dated 11.12.2018 passed by the Judicial Magistrate First Class, Link Court, Kanker, District Uttar Bastar Kanker in Criminal Case No.536 of 2017, the Respondent/accused has been acquitted of the charges framed under Sections 279 and 304A of the Indian Penal Code and Section 66/192 of the Motor Vehicles Act.
4. As submitted by Learned Counsel appearing for the State/Petitioner, in support of its case, the prosecution examined as many as 8 witnesses before the Trial Court. Their depositions have been filed along with the present Cr.M.P. Prem Singh (PW1),

Sanjay (PW2) and Mehar Singh (PW3) have not supported the case of the prosecution and turned hostile. They have only stated that they reached the spot after the incident in question. Though Kejuram (PW4) has stated that when he reached the spot, he saw that one vehicle 407 was present on the spot which belonged to the Respondent. This witness has also admitted that since he was not present at the time of incident, he was unable to say who caused the accident. Mangtin (PW5), mother of the deceased is also not an eyewitness. Bhagbali (PW6) is also not an eyewitness. He has only stated that after the incident the Respondent came to him and told that he had crushed the deceased under his vehicle and, therefore, the deceased was to be taken to hospital. Since this witness is also not an eyewitness, he was also unable to explain or say that how and in what manner the vehicle was being driven by the Respondent. Chamra (PW7) has deposed in examination-in-chief that the Respondent, while driving the pick up vehicle, dashed the deceased. But, in his cross-examination, this witness has also admitted that he had also reached at the spot after the incident.

5. From the above, it is clear that none of the witnesses has stated that any of them saw the incident. Therefore, the Trial Court has rightly acquitted the Respondent.
6. I find no substance in the instant application for grant of leave to appeal. The application (Cr.M.P.) is, therefore, dismissed at the admission stage itself.

Sd/-
(Arvind Singh Chandel)
Judge