

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1841 of 2019

State of Chhattisgarh, Through the Police Station- Lundra, District - Surguja (C.G.)

---- Petitioner

Versus

Sunil Tirkey, S/o Chandarlal Tirkey, aged about 24 years, R/o Village-Bishunpur, Police Station- Sitapur, District- Surguja (C.G.)

---- Respondent

For State/ Petitioner : Mr. Raghvendra Verma, G.A.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

22/10/2019

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, delay of 82 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 28.01.2019 passed by Judicial Magistrate First Class, Ambikapur, District- Surguja (C.G.) in Criminal Case No. 2480/2011, wherein the said court acquitted the respondent for commission of offence under Section 304A of IPC, 1860 for driving negligently and rashly one motorcycle bearing registration No. CG15 CB-4282 and causing death of one Jagsai.
5. In the present case, date of incident is 03.10.2011. As per version of Gayasuddin (PW-1) and Shamsad Alam (PW-5), the

vehicle was driven by the accused/ respondent at the time of incident and as per version of Kalim Quereshi (PW-4), the respondent was caught on the spot, but no report was lodged on the date of incident i.e. on 03.10.2011, the report was lodged after 10 days i.e. on 13.10.2011. If the respondent was caught on the spot on the date of incident on 03.10.2011, why the FIR was not lodged on the same day and the respondent was not named in the FIR, it is not clear.

6. The trial court elaborately discussed the entire evidence and recorded finding that neither name of the respondent nor number of the vehicle is mentioned in the FIR and it is not clear that on whose instance, the respondent was implicated in the crime in question, therefore, the charge leveled against the respondent is not established.
7. The finding recorded by the trial court is one of the plausible view and it is settled law that if two views are possible, the view which is favourable to the accused/respondent, should be accepted. The trial court has elaborately discussed the entire evidence and recorded finding of acquittal and 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 at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge