

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1866 of 2019

- State of Chhattisgarh, through- Police Station- City Kotwali,
District- Ambikapur Surguja (C.G.) **---- Petitioner**

Versus

- Mukesh Ram Rajwade, S/o- Rameshwar Ram Rajwade, Aged
about- 36 years, Bhattikala Uparpara, Thana- Ambikapur District -
Surguja (C.G.) **---- Respondent**

For State/Petitioner : Shri Aman Kesharwani, Panel Lawyer.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

11/11/2019

1. Heard on I.A. No. 01/2019, which is an application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, delay of 231 days in filing the instant 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 30th August, 2018 passed by Judicial Magistrate First Class, Ambikapur, District- Surguja (C.G.) in Criminal Case No. 1372/2010 wherein the said Court acquitted the respondent for charge under Section 304-A of IPC, 1860 for driving Pick-up vehicle bearing registration No. CG 04 NA 9466 rashly and negligently and for causing death of one Amarawati.
5. To substantiate the charge, the prosecution examined Ram Bai (PW-2), Amrit Ram Rajwade (PW-3) and Phuleshwari (PW-4)

who are the witnesses of the incident. All the three witnesses deposed before the trial Court that due to disconnection of tyre, the incident occurred. But no one deposed before the trial Court that the incident occurred due to rashness and negligent on the part of the respondent. The trial Court elaborately discussed the entire evidence and recorded finding that charge levelled against the respondent is not established.

6. It is settled law that when two views are possible, the view which is favourable to the accused/respondent should be accepted.
7. After going through the record, this court is of the view that it is not a case where interference of this Court is required in the judgment of the trial Court. It is not a case where the respondent should be called for full consideration of this petition.
8. Accordingly, the application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge