

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1942 of 2019

- State of Chhattisgarh, through- Police Station- Mangchuwa,
District- Balod (C.G.) **----- Petitioner**

Versus

1. Bihari Lal Shrivastava, S/o- Late Dwarika Prasad Shrivastava,
Aged about- 59 years,
2. Ku. Anikta, D/o- Bihari Lal Shrivastava, Aged about- 22 years,
Both respondents are R/o- Batera, P.S.- Daundilohara,
District- Balod (C.G.) **----- Respondents**

For State/Petitioner : Shri Raghvendra Verma, Govt. Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

04/12/2019

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 108 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
29th December, 2018 passed by Judicial Magistrate First Class,
Daundilohara, District- Balod (C.G.) in Criminal Case No.
288/2018 wherein the said Court acquitted both the respondents
for charge under Sections 279 and 304-A of IPC, 1860 and under
Sections 3/181 and 146/196 of the Motor Vehicle Act, 1988.
5. In the present case, the prosecution examined Chandra Bhushan
Ratre (PW-1), Bhadu Ram (PW-2) and Vimal Singh Mandavi
(PW-3) but no one deposed before the trial Court as to what

really happened at the time of incident. From the evidence, it is not clear that vehicle in question Scooty bearing registration No. CG 24 J 6361 was driven by respondent No. 1 namely Bihari Lal Shrivastava. In absence of evidence, it is not established that vehicle was driving by respondent No. 1 in rashness and negligent manner. There is no evidence that vehicle was driving without driving license and insurance certificate, the trial Court recorded finding of acquittal.

6. In view of the above, 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 respondents should be called for full consideration of this petition.
7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge