

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2087 of 2019

- State of Chhattisgarh, through- P.S.- Kanker, District- Uttar Bastar Kanker (C.G.) **----- Petitioner**

Versus

- Chandrashekhar Netam, S/o- Teejlal, Aged about- 18 years, R/o- Village- Davarkhar, P.S.- Kanker, District- Uttar Bastar Kanker (C.G.) **----- Respondent**

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

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

12/12/2019

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 152 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 21st December, 2018 passed by Chief Judicial Magistrate, Uttar-Bastar, Kanker (C.G.) in Criminal Case No. 33/2015 wherein the said Court acquitted the respondent for charge under Sections 279, 338 and 304-A of IPC, 1860 for driving one motor-cycle bearing registration No. CG 05 A 7523 in rash and negligent manner and caused accident due to which one Lokesh was died and Lakhan was injured on 13th December, 2014 at 08:00 pm on highway near village- Dawarkhar, Police Station- Kanker, District- Kanker (C.G.).

5. To substantiate the charge, the prosecution examined as many as 9 witnesses. Lakhan Kunjam (PW-2) is only eye witness account to the incident. The other witnesses have not seen the incident, therefore, their evidence is not significant for deciding the issue.
6. Lakhan Kunjam (PW-2) admitted in cross-examination (Para-6) that he is not able to say as to what was the speed of the motor-cycle driven by the respondent. From the evidence of this witness, it is not clear that the respondent was driving the vehicle rash and negligent manner. The trial Court elaborately discussed the entire evidence and recorded finding that driving in rash and negligent manner by the respondent is not established.
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