

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2165 of 2019

- Appellant

- Resham Nishad S/o Bhuwan Nishad Aged About 20 Years
Ward No. 12, Near Shankar Nagar Gate, P.S. Nawagarh,
Distt. Bemetara Chhattisgarh.

---- Respondent

For Appellant-State :- Shri R. Tripathi, PL

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

30/09/2019

1. Heard.
2. On due consideration, delay of 164 days in filing the present Cr.M.P. is condoned. Accordingly, I.A. No.1 is allowed.
3. The trial Court has acquitted the accused of the charges under Section 304 of the IPC.

4. The accused was sent for trial for committing offence under Section 304 of the IPC on the allegation that while unloading sand from truck No.CG 04 JA 6234 at about 10:00 am on 21.03.2018 he committed culpable homicide not amounting to murder by unloading entire quantity of sand over deceased Dhanraj, who was the conductor of the same truck driven by the accused.
5. It appears, at the time, the accused was unloading the sand, the deceased, being a conductor of the truck, was looking after the unloading work and first got hit by the hydraulic system of the truck and later the entire quantity of sand got unloaded over him for which he died. The accused being driver of the vehicle was supposed to take care of the unloading activity and trace the deceased after completion of unloading work but he did not take care of the deceased, therefore, he died.
6. The evidence adduced by the prosecution would not demonstrate that the deceased had come under the heap of sand due to the negligent act of the accused. He was also not aware that some part of the hydraulic system has hit the deceased. There is absence of evidence that the accused has committed any such act knowingly or intentionally to cause death of the deceased.

7. No case for grant of leave to appeal against the acquittal is made out.
8. Accordingly, Cr.M.P. deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Ankit