

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2341 of 2018

State of Chhattisgarh, Through: Station House Officer , Police
Station Rudri, District – Dhamtari (C.G.)

---- Petitioner

Versus

Fanesh Sahu, S/o - Narottam Sahu, Aged about - 21 years, R/o –
Bajrangpara, Amleshwar, Police Station & District - Durg (C.G.)

---- Respondent

For State/ petitioner : Mr. A. N. Bhakta, Dy. A.G.

For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

12/03/2019

1. Heard on I.A No.1/2018, application for condonation of delay in filing instant petition.
2. On due consideration, the application is allowed and the delay of 115 days in filing the petition is hereby 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 21st March, 2018 passed by the Judicial Magistrate, First Class, Dhamtari (C.G.) in Criminal Case No. 586/2017 wherein, the said Court acquitted the respondent for commission of offence under Sections 279, 338 of IPC, 1860 & Section 3/181 of Motor Vehicle Act, 1988.

5. In the present case the respondent have been charge-sheeted for driving rashly and negligently, vehicle Scorpio bearing registration No. C.G. 07 AV 8289, at public road near village Maradev and causing injury to one Rameshvar Dewangan and again for driving the said vehicle without driving liscence.
6. To substantiate the charge the prosecution examined as many as 11 witnesses. Injured Rameshvar Dewangan (PW-2) is said to be eye witness account to the incident but this witness is not able to say as to how the vehicle has been driven by the respondent at the time of the incident. He simply deposed that vehicle Scoprio dashed his motor cycle from back side. From his entire evidence it is not clear that respondent was driving the vehicle without care and there is breech of duty to drive cautiously and the other witnesses have not seen the incident and some reached to the spot after the incident. Some witnesses assisted the prosecution after registration of FIR. Therefore, from the entire evidence charge of driving negligently or rashly against the respondent is not established.
7. Sub Inspector Mukesh Kumar Patel (PW-11) who is Inspecting Officer of the case did not deposed that he provided opportunity to the respondent to submit his driving license. The Police officer can demand the driving liscence from the driver of the vehicle but that is not done in the present case unless, opportunity is provided to driver he cannot submit the driving license therefore, it cannot be

said that respondent was driving the vehicle without driving license.

8. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondent is not established. After reassessing the entire evidence, 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.
9. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge