

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2380 of 2019

State of Chhattisgarh, Through The Incharge Police Station- Lormi,
District- Mungeli (C.G.)

---- Petitioner

Versus

1. Virendra Kumar, S/o Abhey Ram Kurre, Aged About 28 Years, R/o Village- Phulwari, Police Chowki- Chilfi, Police Station- Lormi, District- Mungeli (C.G.)
2. Krishna Kumar, S/o M.L. Jaiswal, Aged About 35 Years, R/o Village- Chatidih, Police Station- Lormi, District- Mungeli (C.G.)

---- Respondents

For State/ Petitioner : Mr. Raghvendra Verma, Govt. Adv.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

25/11/2019

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 317 days in filing the 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 judgment dated 09.08.2018 passed by Judicial Magistrate First Class, Lormi, District-

Mungeli (C.G.) in Criminal Case No. 193/2011, wherein the said court acquitted respondent No. 1 for commission of offence under Section 304A of IPC, 1860 for driving rashly and negligently one Hero Honda motorcycle bearing registration No. CG10 ED 0321 on 07.11.2010 at about 9:45 p.m. near Village- Bodtara in public road and caused death of one Panchram. He has been further charged that the vehicle was driven without having insurance policy. Respondent No. 2 is made party because he is owner of the said vehicle.

5. To substantiate the charge, the prosecution examined as many as 9 witnesses. Shukla Satnami (PW-1), Jaita Tonde (PW-3) have been cited as eye-witnesses, but they both have admitted in cross-examination that they have not seen the incident and they reached to the spot after the incident, therefore, their version is not sufficient to hold as to how the accident occurred and whether respondent No. 1 was rash and negligent on his part in driving the said vehicle.
6. Head Constable- Rajaram Sahu (PW-9) is investigating officer, but he did not depose before the trial court that he issued any notice to the respondents for submission of insurance certificate. In absence of any notice, the trial court opined that driving without insurance certificate is not established. The view taken by the trial court is based on proper marshalling of evidence adduced by the prosecution.
7. The trial court elaborately discussed the entire evidence and recorded finding that the charge is not established by satisfactory evidence. After reassessing the entire evidence, this

Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.

8. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun