

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.2411 of 2018**

- State Of Chhattisgarh Through The Station House Officer, Police Station Katghora, District Korba Chhattisgarh.

---- **Petitioner****Versus**

- Pandeshwar Pratap Singh S/o Shri Badri Singh Rajput Aged About 29 Years R/o Kenduatola, Police Station Bhelwaghathi, District Giridih Jharkhand.

---- **Respondent**

 For the Petitioner/State : Shri Ravish Verma, Govt. Advocate
 For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

09.01.2019.

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 79 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition has been preferred against judgment of acquittal dated 11.5.2018 passed by Additional Judge to the Court of Additional Sessions Judge, Katghora, Distt. Korba (CG) in Session Case No.104/2016 wherein the said Court acquitted the respondent for the charges under Section 304 Part-II of the Indian Penal Code, 1860 for committing culpable homicide of two

persons namely Chandrika Prasad and Ram Prasad on account of dashing of their vehicle on a stationary truck bearing registration No.CG 04 ZD 7019 near village Rajkamma on 05.02.2016 at about 9.30 pm.

5. It is alleged that the respondent who was the driver of the said vehicle stationed the truck negligently and intentionally that it may cause fatal injury to any one passing through the road. There is no eye witness account of the incident. Vijay Kumar (PW-5) deposed that the truck was stationed in the left side of the road which was visible to anyone passing through the road. As per the version of Rajkumar (PW-4) a red light was fixed on the backside of the truck as indicator.

6. From the entire evidence, it is established that the truck was stationed on the left side of the road and both the deceased dashed the stationed truck while passing on the road by motor cycle. Looking to the entire evidence, the trial Court opined that the stationing the truck on the left side of the road with indicator is not a negligent act and it cannot be said that the truck was stationed with intention to cause such bodily injury as is likely to cause death or with the knowledge that it is likely to cause death. When the truck was stationed in the proper manner, charges levelled against the respondent is not established. The finding of the trial Court is based on relevant facts placed before it and the same is not on the basis of irrelevant or extraneous facts.

7. It is settled law that when two views are possible, the view which is favourable to the accused should be accepted. On

overall assessment of the evidence, this court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the petition.

8. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE