

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 27 of 2019**

State of Chhattisgarh, Through - The Station House Officer
Police Station, Koni, District - Bilaspur (C.G.) ---- **Petitioner**

Versus

Chandlal @ Chandu, S/o - Late Mahavir Singh Karve, Aged
about - 41 years, R/o - Village Ramdaipara, Ratanpur, Police
Station – Ratanpur, District - Bilaspur (C.G.) ---- **Respondent**

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

For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****21/06/2019**

1. Heard on I.A. No. 01/2017, application for condonation of delay in filing of instant 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 160 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 28th March, 2018, passed by Judicial Magistrate First Class, Bilaspur (C.G.), in Criminal Case No. Cri/11838/2014, wherein the said court acquitted the respondent for charge under Section 279 and 338 of IPC, 1860.

5. To substantiate the charge, the prosecution examined as many as 9 witnesses. Shravan Kumar (PW-2) who is injured by respondent by way of driving the vehicle- Pickup and is sole witness of this case. As per version of this witness, when he reached at Sendari Square, the respondent brought his Pickup vehicle towards his side and that is why he fallen down on railway track. Version of this witness is contradictory to his earlier statement recorded under Section 161 of CrPC in which he clearly stated that the respondent dashed his vehicle from back side. This version is contradicted by himself while deposing before the trial Court. As per version of this witness the vehicle of the respondent did not dash his vehicle therefore, it cannot be held that the incident took place on account of dash of vehicle of the respondent.
6. The trial court has elaborately discussed the entire evidence and recorded finding that negligence of the part of the respondent is not established. After reassessing the same, 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.
7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge