

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 152 of 2019**

State of Chhattisgarh, Through – Thana Janjgir, District- Janjgir-
Champa (C.G.)

---- **Petitioner**

Versus

Narayan Patel, S/o Laxman Patel, aged 60 years, R/o Village-
Aauraikala Chunuvan, through – Thana Janjgir, District- Janjgir-
Champa (C.G.)

---- **Respondent**

For State/ Petitioner : Mr. Ravish Verma, Govt. Advocate.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

09/04/2019

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 214 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 13.02.2018 passed by Special Judge (Electricity Act, 2003), Janjgir-Champa (C.G.) in Electricity Criminal Case No. 51/2017,

wherein the said court acquitted the respondent for commission of offence under Section 135 (1-A) of the Electricity Act, 2003 & Section 304A of the IPC, 1860.

5. In the present case, name of the deceased is Saroj Bareth and as per autopsy report of Dr. M.D. Tendaway (PW-8), the deceased died due to electrocution. The only question for consideration before this Court is as to who is real culprit negligently fixed GI wire from which current was flowing and deceased came into contact of the said wire.
6. Dashrath Yadav (PW-5) deposed before the trial court (Para 2) that there was Nawdha Ramayan programme going on at the time of incident in the said temple namely Sati Dai Mandir which was organized by four persons namely Mahesh, Malechha, Dhansai and the present respondent, but this witness clearly deposed that he is not aware about the fact as to who really fixed the GI wire in the said temple.
7. To substantiate the charge, the prosecution examined as many as 15 witnesses, but no one is in position to say as to who really fixed the said GI wire in the temple at the time of the programme. When the charge is for any criminal act, the same cannot be decided on preponderance of probability because to fasten the criminal liability, there should be strict proof against the person charged. Though, it is said that the respondent was priest of the temple at the time of incident, but this alone fact is not sufficient to fasten criminal liability on him

in absence of clear evidence of negligently fixing GI wire in the said temple.

8. The trial court has elaborately discussed the entire evidence and recorded finding of acquittal and after reassessing the same, this Court has no reason the record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge