

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 245 of 2020

State of Chhattisgarh, Through- Police Station Ambikapur, District- Surguja (C.G.)

---- Petitioner

Versus

Mohd. Mustaq Ahmad, S/o Mohd. Abdul Gaffar, Aged About 58 Years, R/o Rasulpur, Police Station Ambikapur, District- Surguja (C.G.)

---- Respondent

For State/ Petitioner : Mr. Aman Kesharwani, Panel Lawyer
For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

03/03/2020

1. Heard on I.A. No. 01/2020, 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 153 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 10.05.2019 passed by Judicial Magistrate First Class, Ambikapur, District-

Surguja (C.G.) in Criminal Case No. 53/2013, wherein the said court acquitted the respondent for charge under Sections 279, 337 & 338 of IPC, 1860 for driving Scorpio vehicle bearing Registration No. CG-15 CM-3000 in rash and negligent manner near New Bus Stand, Ambikapur on 13.01.2013 at about 14:30 O'clock and for causing simple injury to Sangeeta Vishwakarma & Vaishali Vishwakarma and grievous injury to one Ramchandra Vishwakarma.

5. In the present case, Ramchandra Vishwakarma (PW-1) and Sangeeta Vishwakarma (PW-2) are eye-witnesses account to the incident. Ramchandra Vishwakarma (PW-1) deposed before the trial court that the respondent was driving the said vehicle speedily while Sangeeta Vishwakarma (PW-2) deposed that the accident is caused by the respondent.
6. The trial court has elaborately discussed the entire evidence and recorded finding that basic ingredients of the offence that rash and negligent on part of the respondent is not established. If road is open then the driver can accelerate speed, but the same is not negligent driving. It is only when the driver flouts the duty of caution, but no one deposed that the respondent has driven the said vehicle in rash and negligent manner.
7. The trial court elaborately discussed the entire evidence and recorded finding of acquittal. After going through the record, it is not a case where any interference is required with the judgment

of the trial court. It is also 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.

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

Sd/-
(Ram Prasanna Sharma)
Judge

Arun