

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 633 of 2020

State of Chhattisgarh Through Police Station Dharsinwa, District Raipur Chhattisgarh. **---- Petitioner**

Versus

Damru Punji S/o Sardakar Punji Aged About 28 Years R/o Majhi Guda, Police Station Kodesara, District Kalahandi (Orissa), Present R/o Surya Paper Mill, Dhaneli, Police Station Dharsinwa, District Raipur Chhattisgarh. **---- Respondent**

For State/ Petitioner : Mr. Ishwar Jaiswal, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

12.03.2020

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 115 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 08/08/2019 passed by Learned Judicial Magistrate First Class, Raipur (C.G.) in Criminal Case No. 296/2013 wherein the said court has acquitted the respondent for offence under Sections 279, 337, 304-A of the Indian Penal Code, 1860 for driving on Tractor Vehicle bearing registration No. CG/07/NA/5146

negligently and rashly on 24th of June, 2013 at about 10.30 p.m. near Dhaneli public road.

5. It appears from the record of the trial Court that trial Court provided number of opportunities to the petitioners side to adduce the evidence but no one appear to adduce the evidence before the said Court. Therefore, in absence of evidence the trial Court recorded finding of acquittal.
6. View taken by the said Court is one of the plausible view It is settled law that if two views are possible, the view which is favourable to the respondent/ accused, should be accepted. There is nothing on record to convert order of acquittal into conviction.
7. The trial court has elaborately discussed the entire evidence and after going through the record, this Court has no reason to record contrary finding. It is not a case where the respondents should be called for hearing again for full consideration of this petition. It is not a case where trial Court has over-looked the relevant material placed on record. It is also not a case where order of the trial Court is based on extraneous or irrelevant material and it cannot be termed as perverse or unreasonable.
8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)

Judge