

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 416 of 2017

State of Chhattisgarh Through District Magistrate, Raipur,
Chhattisgarh., Chhattisgarh. **---- Petitioner**

Versus

Tameshwar Chandrakar S/o Horiram Chandrakar, Aged About
27 Years R/o Ward No. 1, Police Station Kurud, District
Dhamtari, Chhattisgarh. **---- Respondent**

For State/petitioner : Mr. D.K. Tiwari, Dy.G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

03.03.2020

1. Heard on I.A. No.2, which is an application for condonation of delay in filing the 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 **35** days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of Cr.P.C.
4. This petition is preferred against the judgment dated 27.07.2016 passed by learned Judicial Magistrate First Class, Raipur (C.G.) in Criminal Case No. 794/2011 wherein the said Court has acquitted the respondents for commission of offence under Sections 279, 337 of Indian Penal Code, 1860 for driving rashly and negligently one Commander Jeep bearing registration No. C.G. 04 C 0774, on 5th of November, 2006 at about 11:30 a.m. in the morning at National Highway

No. 43 near village Satpara and causing injury to Khushant Kumar Padhiyar and Jayant Sahu.

5. To substantiate the charge, the prosecution examined as many as six witnesses through Khushant Kumar (PW-1), Jayant Sahu(PW-2), Arjun Sahu(PW-3), Premlal (PW-4), Sheshnarayan Tiwari (PW-5) and Sanat Sharma(PW-6). These witnesses have deposed before the trial Court that injured were dashed by Commander Jeep driving by the respondent. They have also deposed that respondent was driving the said vehicle. Mere driving cannot be said to be negligence driving, it is only when the respondent driving his vehicle by flouting norms of driving in a public road, his act may be said to be violation of duty of caution. No one deposed before the trial Court as to how the duty of caution is flouted by the respondent.
6. The trial Court evaluated the entire evidence and recorded finding that negligence or rash driving on part of the respondent is not established.
7. After going through the record, it is not a case where interference of this Court is required with the judgment of the trial Court. It is also not a case where respondents should be called for hearing again for full consideration of this petition.
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