

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 62 of 2012**

State of Chhattisgarh, Through the District Magistrate, District-
Rajnandgaon (C.G.)

---- Appellant

Versus

Bhanupratap Tiwari, S/o Shri Ramesh Tiwari, Aged 22 years, R/o
Janta Colony, Lakholi, P.S. Kotwali, District- Rajnandgaon (C.G.)

---- Respondent

For State/Appellant : Mr. Raghvendra Verma, Govt. Adv.

For respondent : Mr. Parag Kotecha, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

07/01/2020

1. This acquittal appeal is preferred under Section 378 (3) of the Code of Criminal Procedure, 1973 against judgment dated 27.09.2011 passed by Judicial Magistrate First Class, Rajnandgaon (C.G.) in Criminal Case No. 173/2009, wherein the said court acquitted the respondent for commission of offence under Sections 297, 337 & 338 of IPC, 1860 and Sections 146/196 & 128/177 of the Motor Vehicle Act, 1988.
2. On 10.07.2008, when the complainant- Hiranman Lal Jangade was returning along with Smt. Durga Bai and Ramnarayan by his motor-cycle bearing Registration No. CG-08 A-4302 from Rajnangaon to Village- Khuteri, it was dashed by one motor-cycle bearing Registration No. CG-08 F-4348 coming from opposite side. It is alleged that the respondent was driving the vehicle negligently that is why the accident occurred and complainant side injured. The matter was reported,

respondent was charge-sheeted and after completion of trial, the trial court acquitted the respondent.

3. Learned counsel for the State/appellant submits that the trial court has not evaluated the evidence in its true perspective and disbelieve the evidence of eye-witnesses who were the real witnesses of the incident, therefore, finding arrived at by the trial court is liable to be set aside.
4. On the other hand, learned counsel for the respondent submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.
5. I have heard learned counsel for the parties and perused the record.
6. In the present case, Dehati Nalsi was recorded as per Ex. P/1. In the said Dehati Nalsi, name of the respondent is not mentioned as driver of the offending vehicle. Dehati Nalsi was lodged by the complainant- Hiranman Lal Jangade. In the said Dehati Nalsi, it is not mentioned that the respondent was driving the vehicle in wrong side, but in the trial court, the complainant improved his version and deposed that the respondent was driving the vehicle in wrong side.
7. This exaggeration can be accepted only when there is proper explanation for not stating the same during investigation, but no explanation is given for the same, therefore, from evidence

of Hiranman Lal Jangade (PW-1), negligence on the part of the respondent is not established.

8. Ramnarayan Patel (PW-2) & Durga Bai (PW-3) have not stated name of the respondent as driver of the offending vehicle and in their earlier version, they have also not stated name of the respondent, therefore, identification should have been done during the investigation as to who really driving the vehicle at the time of incident.
9. The trial court has elaborately discussed the entire evidence and after reassessing the same, this Court has no reason to record contrary finding and it is not a case where any interference with judgment of acquittal is called for by this Court.
10. Accordingly, this acquittal appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge