

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 157 of 2020

- State of Chhattisgarh, through- Station House Officer, Police Station- Dharamjaigarh, District- Raigarh (C.G.) ---- **Petitioner**

Versus

- Putlu @ Dinesh Sidar, S/o Mangal Sidar (Gond), Aged about 21 years, R/o Village Bansjor, Police Station- Dharamjaigarh, District- Raigarh (C.G.) ---- **Respondent**

For State/Petitioner : Shri Dinesh R.K. Tiwari, Dy. G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board04/03/2020

1. Heard on I.A. No. 01/2020, which is an 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 136 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 the judgment dated 30th April, 2019 passed by Judicial Magistrate First Class, Dharamjaigarh, District- Raigarh (C.G.) in Criminal Case No. 306/2014 wherein the said Court acquitted the respondent for charge under Sections 279 and 304(A) of the Indian Penal Code (for short "the IPC"), 1860 and under Section 3/181 of the Motor Vehicle Act, 1988 for driving one tractor bearing engine No. RFNB01526 negligently on 12th June, 2014 at Nichepara,

Dharamjaigarh at about 01:00 p.m. and causing death of one Bhuwan and again driven the vehicle without license.

5. To substantiate the charge, the prosecution examined as many as 6 witnesses. Revanand Yadav (PW-1) and Santosh (PW-2) have thrown some light in their statement regarding the incident. Revanand Yadav (PW-1) deposed that the vehicle driven by the respondent speedily and he dashed the person who was sitting in a motor-cycle. Santosh (PW-2) has not estimated the speed of the tractor. Mere driving of vehicle is not an offence. The prosecution is under obligation to establish that the vehicle was driving negligently or rashly which resulted into accident, but negligent or rashness on the part of the respondent is not established.
6. Apart from the evidence of these two witnesses, no police officer was examined before the trial Court to establish that he demanded driving license of the respondent. Unless there is demand for the driving license, the driver is not under obligation to show the driving license to some other persons who are not authorized for demanding driving license.
7. The trial Court after evaluating the entire evidence recorded finding of acquittal. Finding of the trial 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, therefore, this Court has no reason to record contrary finding regarding commission of offence. It is not a case where respondent should be called for hearing again 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**

Vasant