

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 162 of 2020

State of Chhattisgarh Through Police Station Kunkuri, District
Jashpur, Chhattisgarh. **---- Petitioner**

Versus

Madan S/o Bhulu Aged About 45 Years Caste Mahakul, R/o
Village Laranga, Police Station Sanna, Presently Residing At
Bagicha, District Jashpur, Chhattisgarh. **---- Respondent**

For State/petitioner - Mrs. Smita Jha, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

02.03.2020

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 117 days in filing the petition is condoned.
3. Heard on application for grant of leave to appeal under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against the judgment dated 25th of May, 2019 passed by learned Judicial Magistrate First Class, Kunkuri, District- Jashpur (C.G.) in Special Case No. 773/2013 wherein the said Court has acquitted the respondent for commission of offence under Section 279, 337, 338 & 304-A of Indian Penal Code, 1860 for driving one vehicle bus rashly and negligently bearing registration no. CG 15 A 8615 on 26th of September, 2013 at about 9.00 am, at village Salihatoli and

caused simple and grievous injury to the persons whose name are mentioned in the charge-sheet and for causing death of one Yashoda.

5. To substantiate the charge, prosecution examined as many as 37 witnesses, no one deposed before the trial Court that respondent was driving bus negligently. There is nothing on record to establishing that vehicle was driving rashly and negligently. On the contrary the witnesses deposed that one patta pin of the said bus was broken at the time of incident that is why bus got imbalanced. The prosecution was under obligation to prove evidence that it is a case of rash and negligent on the part of the respondent but from the entire evidence the same is not established.
6. After assessing the evidence, the trial Court recorded finding that charges leveled against the respondent is not established to the satisfaction of the trial Court.
7. 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.
8. After going through the records, it is not a case where any interference of this Court is required. The trial Court has elaborately discussed the entire evidence and came to conclusion that the charges leveled against the respondent is not established. After reassessing the same, this Court has no reason to record contrary finding. It is not a case where

respondent should be called for hearing again for full consideration of this petition.

9. Accordingly, application for grant of leave to appeal is rejected. Consequently, the appeal stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

N.Mohle