

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1373 of 2021**

State of Chhattisgarh, Through: Police Station- Kondagaon, District Kondagaon (C.G.).

---- **Petitioner**

Versus

Hannuram Baghel S/o Shri Chamru Ram Baghel, Aged about 52 years, R/o House No.16, Ward No.01, Schoolpara Ranapal, Police Station Pharasgaon, District Kondagaon (C.G.).

--**Respondent**

For Petitioner	:	Mr. Nitesh Jain, Advocate
For Respondent	:	None

Hon'ble Shri Justice Deepak Kumar Tiwari
Order on Board

08/12/2021

Heard on admission.

1. The instant CRMP under Section 378 (3) of the Code of Criminal Procedure has been preferred for grant of special leave to appeal against the judgment of acquittal dated 06/09/2021 passed in Criminal Case No. 260/2019 (State of Chhattisgarh v. Hannuram Baghel) by the Judicial Magistrate First Class, Kondagaon whereby the respondent/accused has been acquitted from the charges framed under Sections 279 and 338 of the IPC.
2. Brief facts of the case are that on 21/03/2018, one Shivnandan Singh Rajput (henceforth 'the Complainant') along with his wife and a friend Parmanand

Agrawal came to Jampadar, Kondagaon from Dhamtari for attending the marriage function of his relative's uncle. In the evening at about 7:15 pm after the marriage, he along with his wife and friend was going on a motorcycle of his brother-in-law towards Vishrampuri. On the way a white colored Maruti Ritz Car bearing No. CG27 A/2500 which was being driven by the respondent/accused in rash and negligent manner, hit the silencer of his motorcycle due to which the Complainant, his wife and his friend fell down resulting into fracture of right thigh to the complainant. The Complainant lodged a report in Police Station Kondagaon about the incident. The matter was investigated and the respondent/accused was arrested by the police. A charge-sheet against the accused person was filed. After framing of charges, the prosecution examined witnesses in support of its case and also recorded the statement of accused person. After completion of trial, the learned Judicial Magistrate First Class, Kondagaon passed the impugned judgment acquitting the respondent/accused person from the charges framed against him. Hence, this petition.

3. Counsel for the State submits that the judgment, findings and order of acquittal passed by the Court below is illegal, improper and incorrect and the same is liable to be set-aside. The learned Judicial Magistrate has committed an error in deciding the facts in the case and law points. He prays for grant of special leave to appeal against the impugned judgment.
4. I have heard learned counsel for the petitioner/State and perused the impugned judgment minutely.

5. Vide para 13 of the impugned judgment, the trial Court has discussed about the statements of witnesses namely Shivnandan (PW1), Parmanand (PW2) and Binda Thakur (PW3) who all were traveling on the alleged motorcycle on the date of incident. Shivnandan (PW1) in his statement has clearly deposed that wheel cap of the car which was being driven by the accused, got separated and hit the motorcycle. He further deposed that if the wheel cap had not hit the motorcycle, they would not have fallen down from the motorcycle. This witness has also admitted in para 6 that he was not having any knowledge that the car which was being driven by the accused was punctured and uncontrolled.
6. The trial Court has also found material contradictions and omissions in the statements of the prosecution witnesses and for the aforesaid infirmities the said Court has rightly arrived at the conclusion that the prosecution has failed to prove the charges against the accused under the aforementioned sections.
7. It is an established law when two views are possible on the basis of two divergent versions given by the prosecution, the benefit of doubt should be given to the accused. So, on this principle this Court is of the view that the order of acquittal passed by the trial Court does not call for any interference and the same is affirmed.
8. Accordingly, the CRMP is liable to be and is hereby dismissed.

Sd/-
(Deepak Kumar Tiwari)
Judge