



2024:CGHC:33303

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 470 of 2023**

- Smt. Sumitra, W/o Late Tularam, Caste – Rajwar, aged about 30 years, Occupation – Agriculture & House Work, R/o village – Badrikashram, Police Station & Tahsil – Ramanujnagar, District – Surajpur (C.G.)

---- Applicant**Versus**

1. Radheshyam Sahu, S/o Shankhlal Sahu, aged about 40 years, R/o village Madneshwarpur, Police Station & Tahsil Ramanujnagar, District Surajpur (C.G.).
2. State Of Chhattisgarh Through the District Magistrate, Surajpur, District Surajpur, Chhattisgarh

---- Respondents

(Cause title taken from Court Information System)

For Applicant	:	Mr. Sanskar Rajput, counsel appears on behalf of Mr. Shivendu Pandya, Advocate.
For Res. Nos. 1	:	None
For State/Res. No.2	:	Mr. Ruhul Ameen Menon, Panel Lawyer.

Hon'ble Smt. Justice Rajani Dubey**(Judgment on Board)****30.08.2024**

1. Heard on I.A.No.01/2024, for condonation of delay in filing the revision, which is supported by the affidavit of appellant.
2. On due consideration and for the reasons mentioned therein, the same is allowed and delay in filing the revision is hereby condoned.
3. Also heard on admission.
4. The present revision is filed against the judgment dated 24.12.2022 passed in Criminal Appeal No.11/2018 by the learned 1st Additional Session Judge, Surajpur (C.G.), whereby the learned Appellate Court below has dismissed the appeal filed by the applicant and confirmed the judgment dated 30.01.2018 passed in Criminal Case No.903/2015 by the learned Judicial Magistrate First Class, Surajpur (C.G.), whereby the accused/respondent No.1 has been acquitted from the offence punishable under Sections 279, 337, 304-A of IPC.
5. Prosecution story in brief is that a report was filed by Ramgopal at police station Ramanuj Nagar to the effect that on 18.01.2007, the accused/respondent No.1 Radheshyam Sahu driving his vehicle Tractor bearing registration No.CG-15-A-0634 in rash and negligent manner met with an accident near village Kaushalpur and turned turtled, due to which school children namely Parmeshwar Prasad, Ku. Geeta, Ku. Sunita, Ku. Pramila, Ku. Zulekha, Ku. Suman,

Sanjay and Ashish Kumar sitting in the tractor sustained injuries and Tularam succumbed to the injuries. On the basis of the aforesaid report of complainant, a crime was registered against accused/respondent No.1 Radheshyam and the case was taken up for investigation and after thorough investigation, the charge sheet was presented before the trial court.

6. The learned trial Court framed charges against the accused/respondent No.1 under Sections 279, 337, 304-A of IPC/
7. Before the learned trial Court below, prosecution has examined as many as 11 witnesses. Statement of the accused/respondent Nos. 1 was also recorded under Section 313 of the Cr.P.C. The learned trial Court, after appreciating oral and documentary evidence, by judgment dated 30.01.2018 acquitted the accused/respondent No. 1 from the offence punishable under Sections 279, 337, 304-A of IPC. Being aggrieved by the judgment of acquittal dated 30.01.2018, the Complainant/applicant herein filed an appeal before the Court of Sessions and the learned 1st Additional Sessions Judge, by judgment dated 24.12.2022, dismissed the appeal of appellant. Hence, this revision by the Complainant/applicant.
8. Learned counsel for the applicant submits that the impugned judgment of acquittal passed by both the Courts

are bad, illegal, perverse and contrary to law and evidence available on record. The learned trial Court and the appellate Court committed serious error of law and fact by acquitting the accused persons inspite of the fact that ingredients of offence under Section 304 (A), 279 and 337 of IPC were proved by the prosecution by leading cogent and reliable evidence. Learned counsel further submits that the learned trial Court failed to appreciate the evidence of prosecution witnesses in its true perspective and the learned Appellate Court did not consider all grounds of appeal and passed the impugned judgment which is liable to be set aside. It has been also argued that Sunil Kumar Tiwari (PW/9) as well as other prosecution witnesses have categorically able to proved that the accused/respondent No.1 had committed the offence of rash and negligence driving, as such, the impugned judgment passed by both the Courts are liable to be set aside and accused/respondent No.1 is liable to be convicted.

9. On the other hand, learned State counsel supported the argument of learned counsel for the petitioner.
10. I have heard learned counsel for the parties, perused the orders of both the Courts and record of the learned trial Court.
11. Sunil Kumar Tiwari (PW/9) though has stated against

respondent No.1 but the learned trial Court while arriving at the conclusion of acquittal minutely appreciated the cross-examination of this witness and also appreciated the statements of other prosecution witnesses and recorded the finding that the prosecution has failed to prove its case beyond all reasonable doubts against the accused/respondent No.1. The learned Appellate Court has also considered all grounds of appeal of petitioner and also appreciated the statement of prosecution witnesses and dismissed the appeal of the petitioner holding that it has not found any infirmity and illegality in the order passed by the learned trial Court.

12. The Hon'ble Apex Court in its latest judgment dated 12.02.2024 **(Criminal Appeal No 1162 of 2011)** passed in **Mallappa and Ors. Versus State of Karnataka**, has held in para 36 as under:-

36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:-

“(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive--inclusive of all evidence, oral and documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court.”

13. Applying the aforesaid legal proposition of ***Mallappa*** (*supra*) in the present case as well and looking to the statement of witnesses and finding recorded by the learned Courts below, this Court is also of the view that the findings recorded by both the Courts below are based on proper appreciation of oral and documentary evidence. That apart, it is settled position of law that the scope of interference in exercise of revisional powers of the High Court is quite limited inasmuch as it has to only verify that whether there is

any material irregularity and/or illegality coupled with arbitrariness or perverseness in the impugned order or not.

In the present case, no such circumstance is there warranting interference by this Court.

14. Accordingly, the criminal revision preferred by the applicant is bereft of any substance and, therefore, the same is liable to be and is hereby dismissed.

Sd/-

(Rajani Dubey)

JUDGE

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