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2025:CGHC:19715

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 149 of 2021

State Of Chhattisgarh Through Police Chowki Dudhawa, Police Station Narharpur, District North Bastar Kanker Chhattisgarh.

...Appellant

versus

Faleshwar Sahu S/o Rupsingh Sahu Aged About 31 Years R/o Village Sarona Chowki Dudhawa, Police Station Narharpur, District Kanker Chhattisgarh.

---- Respondent

For Appellant	:Shri Ratan Pusty, Government Advocate
For Respondents	:Ms. Bhavna Kotecha, Advocate

Single Bench : Hon'ble Shri Justice Sanjay S. Agrawal

Judgment On Board

30.04.2025

1. This appeal has been preferred by the appellant/State under Section 378 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Cr.P.C.') questioning the legality and propriety of the judgment dated 07.12.2020 passed by the Judicial Magistrate First Class, District North Bastar, Kanker (CG) in Criminal Case No.1170/2015, whereby, the respondent- Faleshwar Sahu has been acquitted with regard to the offence punishable under Sections 279, 338 and 304-A of IPC.

2. From perusal of the record, it appears that the respondent has been charge-sheeted with regard to the offence punishable under Sections 279, 338 and 304-A of IPC. It is alleged by the prosecution that on the fateful day, i.e. 22.09.2015, the deceased- Shrawan Markam, his brother- Kishore Markam and one Devlal had gone to village- Daldali and when they were returning by their motorcycle, it was dashed by Bolero vehicle bearing registration No.CG-05F 0146, which was being driven rashly and negligently by its driver- Faleshwar Sahu, owing to which, Shrawan Markam has sustained serious injuries and was admitted into the Hospital, where he succumbed to the injuries, while his brother- Kishore Markam and his friend- Devlal have injured.

3. In order to establish the alleged fact, the prosecution has examined the injured witness, namely, Kishore Markam (PW-2), who, however, stated that on the fateful day, they have parked their vehicle near the shop of one Devendra at village Daldali and were talking with each other and at that particular time, respondent- Faleshwar Sahu, while driving his alleged vehicle rashly and negligently, dashed their motorcycle, owing to which, they have sustained injuries and, has failed to state the number of the alleged vehicle as well and, similar is the statement of PW-3 (Devlal), who was with him at the relevant point of time. It, thus, appears from their testimonies that they have not only deviated from the allegations made in the report where it was alleged that on the fateful day, they were coming by the motorcycle, but have failed also to state the number of the alleged vehicle.

4. Devendra (PW-1), who has seen the alleged incident, as reflected from his statement (Ex.P-2) recorded under Section 161 Cr.P.C., but, when he

entered into the witness box, has, however, denied the alleged fact that he has seen the alleged incident. Even the recovery of the alleged offending vehicle in presence of two witnesses, namely, Satish Sahu (PW-8) and Sushil Sahu (PW-9) from the respondent was not found to be established, as they have turned hostile by saying that the alleged vehicle was not seized in their presence from the respondent.

5. While noticing the aforesaid materials placed on record, the trial Court has, therefore, not committed any illegality in acquitting the respondent from the commission of the alleged crime, so as to call for any interference in this appeal.

6. The appeal being devoid of merit is, accordingly, dismissed.

Sd/-
(Sanjay S. Agrawal)
JUDGE