



2026:CGHC:17077

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 399 of 2018

- State of Chhattisgarh, Through the Incharge Police Station Tikrapara, District Raipur, Chhattisgarh.

...Appellant

versus

- Vivek Kumar Ghritlahre, S/o Ramlal Ghritlahre, aged about 22 Years, R/o Mahatma Gandhi Nagar Amlidih, Police Station New Rajendra Nagar, District Raipur, Chhattisgarh.

... Respondent

For Appellant	:	Mr. Ram Narayan Sahu, Deputy Government Advocate along with Mr. Rajkumar Sahu, Panel Lawyer.
For Respondent	:	Mr. C.R. Sahu, Advocate.

Hon'ble Shri Justice Radhakishan Agrawal

Judgment on Board

15.04.2026

1. This acquittal appeal has been preferred by the Appellant/State against the judgment dated 07.06.2017 passed by the learned Judicial Magistrate First Class, Raipur, C.G. in Criminal Case No. 1827/2013, whereby the respondent has been acquitted of the offence under Section 304-A of the Indian Penal Code (in short, 'IPC').
2. Case of the prosecution, in brief, is that on 23.06.2013, at about 10:30 a.m., complainant/PW-1- Ramdayal Dahariya lodged a *Dehati Nalishi* (Ex.P-1), stating that on 22.06.2013 at about 7:30 p.m., while he was walking on the road along with the deceased- Dukalu Ram Maheshwar,

near Sejbahar Society, respondent/accused, while driving a motorcycle bearing registration No. CG-04-SC-4135 (hereinafter referred to as the “offending vehicle”) in a rash and negligent manner, dashed against the deceased from behind. Thereafter, the injured/deceased was taken to the hospital by ambulance, but he died on the way due to the injuries sustained. On the basis of the *Dehati Nalishi* (Ex.P-1), an FIR was registered against the accused/respondent.

3. After completion of investigation, charge-sheet was filed before the trial Court. The learned trial Court framed charge against the accused/respondent under Section 304-A IPC. The accused/respondent denied the charge, abjured the guilt, and prayed for trial.
4. The learned trial Court, after hearing counsel for the parties and appreciating the evidence on record, by the impugned judgment acquitted the accused/respondent of the charge leveled against him.
5. Learned counsel for the appellant/State submits that the trial Court has erred in acquitting the accused/respondent despite there being sufficient and cogent evidence on record. He further submits that the prosecution witnesses have supported the case of the prosecution and have clearly stated that the accident occurred due to the rash and negligent driving of the accused/respondent. It is, therefore, prayed that the impugned judgment of acquittal be set aside and the accused/respondent be convicted accordingly.
6. Per contra, learned counsel for the respondent supports the impugned judgment and submits that there is no cogent evidence on record to establish that the accused/respondent was driving the offending vehicle

in a rash or negligent manner and caused the accident. He further submits that the prosecution witnesses have not supported the case of the prosecution. It is, therefore, contended that the learned trial Court has rightly acquitted the respondent of the said charge and the same calls for no interference by this Court.

7. I have heard learned counsel for the parties and perused the material available on record.
8. The Supreme Court in the matter of *Jafarudheen and others vs. State of Kerala reported in (2022) 8 SCC 440* has considered the scope of interference in Appeal against acquittal, which reads as under:-

“25. While dealing with an appeal against acquittal by invoking Section 378 CrPC, the appellate court has to consider whether the trial court's view can be terms as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

9. It is not in dispute that the accident occurred on 22.06.2013 at about 7:30 p.m. near Sejbahar Motor Stand, and that the deceased- Dukalu Ram Maheshwar died in the said accident. The only question that arises for consideration is whether the accident was caused due to the rash and negligent driving of the accused/respondent.
10. PW-1 Ramdayal Dahariya, complainant, stated in his deposition that on 22.06.2013 at about 7:30 p.m., deceased- Dukalu Ram Maheshwar along with two other persons was walking towards his house on the side of the road, and he was walking a little behind them. He further stated that as soon as the deceased reached the road in front of the

Co-operative Society, the accused/respondent came from behind on the offending vehicle, driving in a rash and negligent manner, and dashed the deceased. As a result, the deceased fell down and sustained grievous injuries. He also stated that the injured was taken to Mekahara Hospital by ambulance, and the accused, who had also sustained injuries, was taken in the same ambulance. He also stated that someone from the crowd present at the spot informed the police. However, in cross-examination, he failed to disclose the names of the other persons accompanying the deceased, and his version is not corroborated by any reliable independent evidence.

11. PW-4 Prakash, son of the deceased, admitted that he did not see the accident and came to know about it from PW-1 Ramdayal over the phone. He also admitted that he had not seen the accused at the time of the incident and that the details about the vehicle were told to him by PW-1 Ramdayal. Therefore, his evidence is hearsay and does not help the prosecution.
12. PW-6 Smt. Manbha, wife of the deceased, stated that she had no direct knowledge of the incident and came to know about it through others. She further stated that no person from her locality informed her as to who caused the accident, how it occurred, or when it took place. Thus, she has not supported the prosecution case.
13. PW-7 Hemlal Sonwani did not support the prosecution case and stated that he had not witnessed the incident. He also failed to identify the accused or the vehicle involved in the accident. Thus, his testimony does not advance the case of the prosecution.

14. Thus, from the evidence available on record, it is clear that there is no reliable or trustworthy witness to the incident. The witnesses examined by the prosecution are either hearsay in nature or have not supported the prosecution case. Further, from the evidence of PW-1 Ramdayal Dahariya, it appears that while the deceased was crossing the road, the accident occurred from behind, and in such a situation, the deceased should have been more careful and vigilant while crossing the road. It is pertinent to mention here that the accident occurred on 22.06.2013 at about 7:30 p.m., and although the police reached the spot soon thereafter, but the report (Ex.P-1) was lodged only on 23.06.2013 at about 10:30 a.m., for which no satisfactory explanation has been furnished by the prosecution. This delay further makes the prosecution case doubtful. The learned trial Court, after proper appreciation of the evidence on record, has concluded that the prosecution failed to establish the essential ingredients of the alleged offence beyond reasonable doubt and, accordingly, acquitted the accused/respondent of the charge levelled against him.

15. The Hon'ble Apex Court in its judgment dated 12.02.2024 passed in Criminal Appeal No.1162 of 2011 in case of *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 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."

16. Considering the facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in *Jafarudheen & Mallappa* (supra), the view taken by the learned trial Court appears to be a plausible and possible view. In the absence of any patent illegality or perversity, this Court is not inclined to interfere with the impugned judgment of acquittal passed by the learned trial Court.

17. Accordingly, the acquittal appeal filed by the appellant/State against the acquittal of accused/respondent is hereby dismissed.

Sd/-
(**Radhakishan Agrawal**)
Judge