

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P.No.239 of 2015

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

---- Applicant

Versus

- Shabana Nisha @ Rani, D/o. Late Kadar Ali, Aged about 25 years, R/o. Pachripara, Durg, District-Durg (C.G.)

---- Respondent

For Applicant : Mr.Neeraj Jain, Government Advocate

Hon'ble Shri Justice T. P. Sharma
Hon'ble Shri Justice Inder Singh Uboweja

Order On Board

22/04/2015

T.P.Sharma, J.:-

1. This is petition for leave to appeal against the judgment of acquittal dated 27.6.2014 passed by the 1st Additional Sessions Judge, Durg, in S.T.No.78/2014, whereby the trial Court has acquitted the respondent of the charge under Sections 302 and 201 of the IPC.
2. Present petition for leave to appeal has been filed after 66 days of its limitation.
3. Heard on I.A.No.01 for condonation of delay and also on merits.
4. The trial Court has acquitted the respondent on the ground of no evidence.
5. As per submission of counsel for the applicant, Syba (PW-6) has not supported the case of the prosecution, although as per statement of Syba (PW-6) recorded under Section 164 of the Cr.P.C. Ex.P/10 and statement recorded under Section 161 of the Cr.P.C. Ex.P/9, the respondent has made extra-judicial confession before her, which she has not supported in her

Court evidence.

6. As per case of the prosecution, story of the prosecution is substantially based on extra-judicial confession made by the respondent to Syba (PW-6), which has not supported the aforesaid fact in her Court evidence.
7. In absence of aforesaid evidence and any incriminating fact, the trial Court has acquitted the respondent. It appears that Syba (PW-6) is suppressing the truth and telling lie, but it would be difficult to presume that what was the real fact. In these circumstances, by acquitting the respondent the trial Court has not committed any illegality. Even otherwise, in the present case, the only view convicting the respondent would not be possible. View taken by the trial Court is not erroneous or illegal.
8. We do not find any ground for grant of leave to appeal. Consequently, I.A.No.01 is technically allowed and petition for leave to appeal is dismissed.

JUDGE

JUDGE

B/-