

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No. 298 of 2016**

State Of Chhattisgarh Through The Station House Officer, Police
Station Seepat, District Bilaspur, Chhattisgarh.

---- **Petitioner****Versus**

Mithlesh @ Rahul S/o Bhagirathi Yadav Aged About 23 Years R/o
Village Saraipal Basha, Police Station Seepat, District Bilaspur,
Chhattisgarh.

-----**Respondents**

For Petitioner/State:

Shri UKS. Chandel, Panel Lawyer.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Order on Board****Per Navin Sinha, Chief Justice****27/04/2016**

1. IA No.1/2016 has been filed to condone delay of 18 days in filing the Petition.
2. The State assails acquittal of the Respondent from the charge under Section 302 IPC by the Sessions Judge, Bilaspur dated 3.9.2015 in Sessions Trial No.56/2015.
3. Learned Counsel for the State submits that though there was no eye witness to the occurrence, the case of the prosecution was based on circumstantial evidence. The deceased was alleged to have last had a mobile conversation with the Respondent and called him home before her dead body was found in her courtyard. Based on the confession of the Respondent, there had been recovery of the tangi with blood stains on it and also on the clothes of the Respondent confirmed in the FSL report. No other issue has

been urged before us to assail the acquittal.

4. In a case of circumstantial evidence, it is the duty of the prosecution to prove the chain of circumstances interlinked with one another leading to the only inescapable conclusion of the accused being the assailant. If there is any break in the link of circumstances or in the nature of materials collected, the possibility of any doubts cannot be ruled out, the benefit of doubt must go to the accused.

5. No evidence has been brought on record that either the mobile in question or the sim card in it belonged to the deceased. No voice transcript of any conversation has been brought on record. Even the tower location of the mobile phones of the deceased and the Respondent at the time of occurrence was not ascertained during investigation. Furthermore, in a case of circumstantial evidence, investigation prudently required to confirm blood found on the tangi and the clothes were of the same group as that of the deceased. The prosecution offers no explanation for not having conducted these investigations.

6. We therefore find no reason to interfere.

7. The application for leave to appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE