

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P No. 497 of 2016**

Jawahar Lal Kurmi S/o Shyam Lal Kurmi Aged About 52 Years R/o Village  
- Selar, P.S. - Seepat, Tahsil & District - Bilaspur Chhattisgarh

---- Petitioner

**Versus**

1. The State Of Chhattisgarh Through Station House Officer, Police Station - Seepat, Distt. Bilaspur Chhattisgarh
2. Mohan Lal Kashyap S/o Kunwar Singh Aged About 37 Years R/o Village - Selar, P.S. - Seepat, Distt. Bilaspur Chhattisgarh

-----Respondents

For Petitioner:

Shri Sameer Behar, Advocate.

For Respondent/State:

Shri Madhu Nisha Singh, Panel  
Lawyer.**Hon'ble The Chief Justice****Hon'ble Shri Justice P. Sam Koshy****Order on Board****Per Navin Sinha, Chief Justice****28/04/2016**

1. The present application has been filed for leave to appeal against acquittal of Respondent No.2 dated 3.2.2016 by the Sessions Judge, Bilaspur in Sessions Trial No.96/2015.
2. Learned Counsel for the Petitioner submits that Anshuiya Bai, PW-9 both in her statement under Section 161 Cr.P.C as also during her deposition in Court, has named Respondent No.2 as the person whom she had seen setting fire to the house of the Petitioner, who was PW-1 in the trial. This aspect of the matter has not been properly considered and appreciated. If the police statement and the Court deposition were consistent, mere delay in recording the police statement was not relevant so as to grant acquittal.
3. We have heard Learned Counsel for the State also.

4. According to the case of the prosecution, the Petitioner, PW-1 was informed by Anshuiya Bai, PW-9 on 21.4.2015 over the telephone that his house was afire. The latter did not disclose the name of anyone much less Respondent No.2 as the person whom she had seen setting the house on fire. The First Information Report was lodged months thereafter on 8.7.2015 and the police statement of Anshuiya Bai, PW-9 then recorded in which she now disclosed that it was Respondent No.2 whom she had seen as setting the house on fire. If Anshuiya Bai, PW-9 was aware of the identity of Respondent No.2 as the person who set the house of the Petitioner on fire, surely there has to be some explanation why the name of Respondent No.2 was not disclosed to the Petitioner, PW-1 on 21.4.2015 itself. The Learned Trial Court in the premises considered it unsafe to rely on such a belated police statement corroborated during deposition to hold that the charges could not be said to have been proved beyond reasonable doubt. No explanation was furnished by the prosecution for this delay in lodging of the First Information Report, disclosure of the name and recording of the police statement.

5. An order of acquittal is not to be lightly interfered with unless there has been gross mis-appreciation of evidence, the findings were perverse or the conclusion was such that no reasonable man on basis of the same materials would have arrived at such conclusion. None of the aforesaid principles are applicable in the present case and therefore we do not find any reason to interfere with the order of acquittal.

6. The application for leave to appeal is dismissed.

Sd/-  
(Navin Sinha)  
**CHIEF JUSTICE**

Sd/-  
(P. Sam Koshy)  
**JUDGE**