

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1204 of 2018**

- State Of Chhattisgarh Through- Police Station Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. Anjali Bai Vadyakar W/o Shri Vijay Vadyakar Aged About 45 Years R/o- Subhash Nagar, Ward No. 4, Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Aman Vadyakar S/o Shri Vijay Vadyakar R/o- Subhash Nagar, Ward No. 4, Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

For State/Petitioner : Shri Anil Pillai, Dy.A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Rajani Dubey****Order On Board****13/12/2018**

There is an application (I.A.No.1) for condonation of delay in filing appeal.

Upon due consideration of the grounds urged in the application, the same is allowed. Delay is condoned.

1. Heard on prayer for grant of leave to appeal.

Learned State counsel argued that even though there is no direct evidence, there is clinching circumstantial evidence that the deceased had a relation with the daughter of respondent No.1 and that he used to frequently visit the house and further that on the memorandum of the appellants, clothes and shoes of the deceased were recovered, which clearly point towards the guilt of the appellant. He would submit that according to the FSL report, poisonous substance (an insecticide) was found in the viscera of the deceased and the prosecution witness - Ghanshyam Singh (PW5) has stated that for the purposes of worshipping in the house during Navratri, he

was plucking flowers and supplying *Datura Stramonium* in the house of the respondents. Therefore, all the circumstances point towards the guilt of the respondents.

2. We have gone through the impugned judgment passed by the Trial Court by which the respondents have been acquitted.

3. Though Mahendra Singh Thakur (PW1) states that he was informed by Karna Singh (PW6) that the deceased was seen going towards the house of the respondents, Karna Singh (PW6) in his evidence has not stated that he saw the deceased going towards the house of the respondents. He stated that he was standing in the garden waiting for his friend Deepesh.

According to the prosecution case, the respondents herein are alleged to have administered a poisonous seed namely *Datura* leading to death of the deceased but in the FSL report (Ex.P/32), different poisonous substance called Monocrotophos (Organophosphorus - an insecticide) was found. The prosecution has not come out with any evidence as to wherefrom such poison was collected by the respondents nor any bottle or container has been seized from their possession. A weak evidence of recovery of clothes and shoes lose their significance because they have not been identified. Therefore, on the totality of the evidence led by the prosecution, the prosecution case becomes extremely doubtful and the view taken by the Trial Court is a plausible view and it cannot be said that the impugned judgment of acquittal is in any manner perverse or to say that any material evidence have been ignored before passing judgment of acquittal.

4. The application for grant of leave to appeal is rejected. This petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge