

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1122 of 2018

- Birju Ram Diwakar S/o Sujnu Diwakar Aged About 58 Years R/o Village Tarponga, Police Station Simga, District Baloda Bazar-Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Simga, District Baloda Bazar-Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh
- Mohit Ram Jangde S/o Sakhun Lal Jangde Aged About 35 Years R/o Village Tarponga, Police Station Simga, District Baloda Bazar-Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondents

For Petitioner	: Shri Vinod Tekam, Advocate
For Respondent No.1/State	: Shri Adil Minhaj and Shri Lav Sharma, P.Ls.
For Respondent No.2	: None present.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Rajani Dubey

Order on Board by Manindra Mohan Shrivastava,J.

07/08/2018

Heard on application for grant of leave to appeal.

Counsel for the petitioner submits that learned trial court has erred in law and committed perversity in acquitting the respondent/accused, though, the prosecution succeeded in proving the motive and recovery of sword alleged to have been used in commission of offence and seized on the memorandum of respondent/accused and thus these two circumstantial evidences constitute legally admissible evidence to convict the respondent/accused. The wife of the deceased has stated that two days

prior to the incident there was a quarrel between the appellant and the deceased. It is next submitted that the trial court committed perversity in recording a finding that there was delay in recovery of the weapon because the respondent/accused was only arrested on 12.04.2016 and immediately thereafter, recovery of sword from the river on his memorandum was made which has been duly proved by the prosecution. The independent witnesses of recovery and seizure namely Dhansingh Khosare (PW-2) and Aaju Ram (PW-4) have supported the case of prosecution.

We find that the trial court has acquitted the respondent/accused taking into consideration the weak nature of evidence and doubt over the prosecution story. Conviction is said to be based on the recovery of sword allegedly thrown in a river on 24.03.2016 and the alleged recovery of the same long thereafter on 12.04.2016.

In view of the above, we do not consider present to be a fit case for grant of leave to appeal. It is accordingly rejected.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge