

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 950 of 2013**

- State Of Chhattisgarh Through Its Reserve Centre Lalpur, Distt. Bilaspur C.G.

---- Petitioner**Versus**

- Fatteram And Anr. S/o Shri Kunjram Shrivastava Aged About 42 Years R/o Village Parsakapa, Ps Lalpur, Distt. Mungeli C.G.
- Manmohan S/o Shri Fatteram Shrivastava Aged About 20 Years R/o Village Parsakapa, PS Lalpur, Distt. Mungeli C.G.

---- Respondents

For Petitioner/State	: Ms. K.Tripti Rao, PL
For Respondents	: None present.

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

Order on Board by Manindra Mohan Shrivastava,J.

12/11/2018

Heard on prayer for condonation of delay in filing the appeal.

On due consideration, the application is allowed.

Also heard on admission.

State counsel argues that even though the prosecution has come out with a clinching evidence of strong motive and recovery of mobile of the deceased on the memorandum statement of the respondent/accused, learned trial court had acquitted the respondent.

According to the counsel for the State, the prosecution witnesses have clearly stated that a call was given by the appellant to the deceased and on that call the appellant had gone out of his house and thereafter his dead body was found. A strong motive has been found by the trial court in as much as the deceased was being threatened and warned to remain away from the daughter of the appellant and soon after the threat, the incident happened.

We have gone through the impugned judgment and the material on record including the statements.

The trial court has acquitted the respondent taking into consideration that except motive there is no clinching circumstantial evidence to prove that it is the respondent alone who in all probability, must have, has committed the offence.

As far as the recovery of mobile phone, is concerned, the trial court after close scrutiny of the evidence on record, has come to the conclusion, which we have also find that the identity of the mobile itself is highly doubtful to prove that it is the mobile of the deceased. There is no specific call detail so as to connect the respondent with the alleged offence that just before the incident, the respondent and the deceased had talked to each other. Therefore, the trial court acquitted the respondent by giving him benefit of doubt.

The view taken by the learned trial court on the basis of material available on record, is a plausible view and we do not find any material evidence on record, was ignored from consideration or that any finding contrary to the evidence has been recorded by the trial court, so as to

warrant interference in the judgment of acquittal in a case based on circumstantial evidence. Therefore, we do not find the case if any, for grant of leave and registration of appeal. The same is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge