

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2135 of 2018

State Of Chhattisgarh Through Station House Officer, Police Station- Darima,
District- Surguja, Chhattisgarh

---- Petitioner

Versus

Anil Lakda S/o Late Shri Shobhit Lakda Aged About 27 Years R/o Village-
Naanadmali, Bhagatpara, Police Station- Darima, District- Surguja, Chhattisgarh.,

---- Respondent

For Applicant/State : Mr. Anil Pillai, Dy. A.G.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

14/11/2018

Heard on I.A. No.1, application for condonation of delay in filing application for grant of leave to appeal.

Upon due consideration, the application for condonation of delay in filing application for grant of leave to appeal is allowed.

Delay is condoned.

Heard on prayer for grant of leave to appeal.

Learned counsel for the State argues that even though, all the eyewitnesses of the prosecution have turned hostile, it is proved from the evidence on record that on the fateful night, after quarrel took place between the deceased and his wife, his wife went to her matrimonial house along with one Sunil leaving behind daughters and the present respondent. He would further argue that the evidence of daughters, Ku. Neelu Ekka (PW5), Ku. Anje Ekka (PW6) and Ku. Bindu Lakda (PW8) proves that the quarrel had taken place in the house and these three witnesses namely: Ku. Neelu Ekka (PW5), Ku. Anje Ekka (PW6) and Ku. Bindu Lakda (PW8) left the house and went outside leaving behind the father (the deceased) and the son (present respondent) and later on, the deceased was found dead in the house and lacerated wound was found on his head. Therefore, this strong circumstance of presence of the respondent in the house and his father having died homicidal death on account of injury leads to the only hypothesis of the

guilt. He would further submit that the conduct of the respondent in washing the floor also shows his involvement.

We have gone through the impugned judgment and the evidence. The three prosecution witnesses Ku. Neelu Ekka (PW5), Ku. Anje Ekka (PW6) and Ku. Bindu Lakda (PW8), daughters of the deceased and sisters of the respondent though were cited as eyewitness, all of them have turned hostile and not supported the prosecution case. They have not even stated that there was quarrel going on between their father and present respondent. The deceased is found having sustained lacerated wound in the head, therefore, there is no incised wound to suggest that any assault by an axe was given. The evidence of these prosecution witnesses also suggest that the deceased sustained injury on account of fall on the floor. Though doctor has stated that on simple fall, such injury could not be caused, taking into consideration that a doubt is created whether the deceased died due to fall or because of any assault or there being no evidence of any quarrel or fight between the present respondent and the deceased, we are not inclined to interfere with the judgment of the trial Court acquitting the present respondent giving him benefit of doubt.

The application for grant of leave to appeal is dismissed.

The present CRMP is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge