

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1585 of 2017**

- State Of Chhattisgarh Through Station House Officer, Police Chowki Kunni, Police Station Lakhanpur, District Surguja Chhattisgarh

---- Petitioner**Versus**

- Jai Prakash Tirkey S/o Late Dhaneshwar Ram Uraon Aged About 21 Years Caste Uraon, Occupation-Cultivation, R/o Village -Argauti Mudapara, Police Chowki - Kunni, Police Station -Lakhanpur, District Surguja, Chhattisgarh

---- Respondent

For Petitioner/State : Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Shri Justice Gautam Chourdiya****Order On Board****19/11/2018**

Heard on application for grant of leave to appeal.

Learned counsel for the State argued that the acquittal of the respondent is unsustainable in law because the prosecution led clinching eye witness account and extra judicial confession. In this regard, learned State counsel has placed reliance upon the evidence of child witness – Ku. Manisha (PW6) and the evidence of Roshan Toppo (PW5).

2. Learned Trial Court acquitted the respondent by granting him benefit of doubt mainly because the so called child witness – Ku. Manisha (PW6) has not supported the prosecution case of she having witnessed the incident having found serious discrepancies as stated in her examination-in-chief and cross examination.

2. As far as Roshan Toppo (PW5), who is said to be witness of extra judicial confession is concerned, he has not supported the case of any extra judicial confession given before him and is therefore declared hostile. The other prosecution witnesses i.e. Phoolsai (PW10), Smt. Filomina (PW11), Smt. Dhheeli Bai @ Baleshwari (PW7), Sushil Ram (PW12), Francis (PW13), all have turned hostile and not supported the case of the prosecution.

3. Therefore, we do not consider that the finding which has been recorded by the learned Trial Court suffers from perversity. The view taken by the Trial Court is plausible and does not suffer from any patent illegality or ignorance of material evidence on record so as to warrant interference by this Court against judgment of acquittal. Application for grant of leave to appeal is therefore rejected. This petition is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Gautam Chourdiya)
Judge