

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 446 of 2019

- Applicant

-----Respondent

For Appellant-State :- Ms Madhunisha Singh, PL

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

18/09/2019

1. Heard.
2. On due consideration, delay of 151 days in filing the present Cr.M.P. is condoned. Accordingly, I.A. No.1 is allowed.
3. The trial Court has acquitted the accused of the charges under Sections 302 and 201 of IPC.
4. The accused was sent for trial for committing murder of 7 year old girl, Shadia Fatima at about 2:00 pm on 10.05.2016. Case

of the prosecution was based on the statement of PW-1, Zabin Begum, PW-2, Maulana Basheer, and PW-3, Mumtaz. In addition, memorandum statement of the accused and consequent recovery of knife (*Ustara*) were also pressed into service. In the charge-sheet the prosecution did not refer the above named 3 witnesses to be eye witnesses, yet PW-3, Mumtaz deposed in the Court that she has witnessed the accused committing murder of her step daughter, Shadia Fatima. Neither in the *Dehalti Nalasi* lodged by PW-2, Maulana Basheer, nor in the case diary statement of PW-3, Mumtaz, or any other witnesses, they informed the police about name of the assailant. Thus there is material omission in the diary statement of PW-3, Mumtaz, which is fatal to the case of the prosecution.

5. Due to lack of cogent evidence the trial Court has rightly acquitted the accused of the charges under Sections 302 and 201 of IPC.
6. No case for grant of leave to appeal against the acquittal is made out.
7. Accordingly, the present Cr.M.P. deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge