

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 580 of 2019

- The State Of Chhattisgarh Through District Magistrate, Rajnandgaon Chhattisgarh

---- Petitioner

Versus

1. Dukalu @ Umesh Gawade S/o Maniram Gawade Aged About 28 Years R/o Village Munjal, Madanwada, P. S. Madanwada, District Rajnandgaon Chhattisgarh
2. Dhanay @ Anila Markam S/o Mahar Singh Aged About 24 Years R/o Khursekela, P.S. Manpur, District Rajnandgaon Chhattisgarh

---- Respondents

For Petitioner/State : Shri Subhash Yadav, Dy.G.A.

D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Rajani Dubey

Order On Board

10/05/2019

Heard on I.A.No.1/19, application for condonation of delay in filing the appeal.

Upon consideration, the application is allowed.

Delay is condoned.

Also heard on prayer for grant of leave to appeal.

Learned State counsel would argue that acquittal of respondents by learned Trial Court is patently illegal and perverse because in the morgue intimation and FIR which was lodged immediately after the incident, the names of the two respondents / accused were mentioned as part of the assailants who arrived in the team of naxalites in the mines and killed one of the staff working in the mines. He would further argue that even though other prosecution witnesses have turned hostile and not supported the prosecution case, Veersingh Usendi (PW15) has identified the respondents by their names and has stated that they were also one of those, who had come to the mines and killed Srikumar Nair.

We have carefully gone through the judgment of acquittal and prosecution

evidence.

Taking into consideration that though in the morgue and FIR, names of respondents are mentioned as part of the assailants, none of the prosecution witnesses identified the respondents / accused in the Court. No identification parade was conducted, no recovery of any weapon or any other incriminating article was seized so as to establish any link between the alleged commission of offence with the respondents / accused.

The evidence of Veersingh Usendi (PW15) also does not bring home the guilt of the respondents / accused because in the cross-examination, he has clearly stated that at the time of alleged incident, he was working at a distance of 1 KM and he had not seen the incident or the naxalites but he came to know about the incident only from his colleagues working in the mines. Thus, the evidence of Veersingh Usendi (PW15) is only hearsay.

Learned Trial Court, thus, having found that the prosecution failed to lead any evidence of involvement of respondents, much less reliable one, acquitted the respondents / accused giving them benefit of doubt. We do not find any good ground to interfere with the judgment of acquittal. The application for grant of leave to appeal is rejected. Present CrMP is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge