

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 887 of 2019

State Of Chhattisgarh, Through Police Station Arjunda, District Balod
Chhattisgarh ----- **Petitioner**

Versus

Harish Chandrakar S/o Prahlad Chandrakar Aged About 46 Years R/o
Ward No. 4, Arjunda, Police Station Arjunda, District Balod
Chhattisgarh ----- **Respondent**

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

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

18/06/2019

Heard on application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Also heard on application for grant of leave to appeal.

1. Learned State counsel would make a pointed submission that even though Amit Gatre (PW10) admitted having given 164 Cr.P.C. statement before the Magistrate, wherein, he stated that it is the respondent accused who got the house set on fire, learned Trial Court has acquitted giving benefit of doubt.

2. We have gone through the impugned judgment and the evidence on record, particularly that of Amit Gatre (PW10), the driver of the respondent accused.

3. This witness has not supported the prosecution case and according to his evidence, no criminal overt act was committed by the respondent accused. 164 Cr.P.C. statement of this witness could be used only as a corroborative piece of evidence and that by itself could not be made a basis as a substantive evidence to his conviction.

4. We also find that this witness has also not accepted the statement under Section 164 Cr.P.C. was voluntarily given because he has stated that his clothes were removed. He was locked in room by policeman and made to kneel down to give statement to suit the case of the prosecution.

5. In view of above consideration, we do not find any ground to grant leave to appeal. Therefore, the CRMP is dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge

Rekha