

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 860 of 2019**

- The State Of Chhattisgarh Through-District Magistrate, Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

- Kamal Dhimar S/o Raju Dhimar Aged About 20 Years R/o Village-Koliyari, Police Station-Arjuni, District- Dhamtari, Chhattisgarh

---- Respondent

For Petitioner / State : Shri Anand Verma, Dy.G.A.

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

Order On Board**17/06/2019**

Heard on application for grant of leave to appeal.

Learned State counsel would argue that even though the case of the prosecution is based on circumstantial evidence, the prosecution led clinching evidence collected upon memorandum of the respondent / accused that he along with other juvenile accused, after committing unnatural act, committed murder of the deceased which is proved from presence of spermatozoa in the clothes of the deceased.

We have gone through the impugned judgment and the evidence led by the prosecution. Except the prosecution story, as reflected from the memorandum of the respondent / accused, we could not find any clinching evidence to collect the respondent / accused that the alleged commission of offence. As the present case of the prosecution is based on circumstantial evidence only, the prosecution was required to lead clinching evidence to form a complete chain with regard to alleged overt act committed by the respondent, which the prosecution has utterly failed to do, which led to acquittal of the respondent / accused.

We do not find any ground to grant leave to appeal where the view taken by the learned Trial Court cannot be said to be patently illegal or in ignorance of any incriminating circumstantial evidence.

The application for grant of leave to appeal is therefore rejected. The present CrMP is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge