

HIGH COURT OF CHHATTISGARH, BILASPUR

- State Of Chhattisgarh Through- Police Station Akaltara, District- Janjgir-Champa, Chhattisgarh.

Versus

1. Omkar @ Onkar Bhedpal S/o Chetan Ram Bhedpal Aged About 24 Years R/o- Santoshi Chowk, Village Taroud, Police Station Akaltara, District- Janjgir-Champa, Chhattisgarh.
2. Chetan Ram Bhedpal S/o Sarha Ram Bhedpal Aged About 62 Years R/o- Santoshi Chowk, Village Taroud, Police Station Akaltara, District- Janjgir-Champa, Chhattisgarh.

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For Applicant-State :- Shri Chitendra Singh, PL

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Gautam Chourdiya**

Order On Board

By

Prashant Kumar Mishra, J.

19/11/2019

1. On due consideration delay of 13 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01 of 2018 which is an application for condonation of delay occurred in filing of the instant Cr.M.P. is allowed.

2. The trial Court has acquitted the accused persons of the charges under Sections 304-B/34 in alternative Section 302/34 of the I.P.C.
3. Deceased - Anjani and accused - Omkar were married on 22.02.2015. The parents of deceased have predeceased prior to her marriage. Marriage of the deceased was performed by her relatives including PW-2 Mantora, wife of Johit, PW-4 Johit and PW-6 Naresh. While PW-2 Mantora and her husband PW-4 Johit would state that after the marriage they have paid Rs.7000/- to deceased Anjani as the accused was demanding the amount from her. All the witnesses would state that the accused started liking the deceased and he himself has proposed for the marriage and further that there was no demand of dowry either at the time of marriage or before marriage. Except PW-2 Mantora and PW-4 Johit no other witnesses are supporting the prosecution. Even PW-4 would state in his cross-examination that since the marriage life of the deceased - Anjani was quite peaceful, he had not lodged complaint anywhere in respect of demand of dowry by the accused.
4. Considering the different statements made by the prosecution witnesses, the entire issue concerning demand of dowry and commission of cruelty in connection with the said demand is in the realm of appreciation of evidence.

5. The view taken by the trial Court is one possible view in the matter, therefore, in view of the settled legal position that when two views are possible in the case and the trial Court has taken one of the views, the judgment of acquittal should not be converted into a judgment of conviction. (See : State of M.P. Vs. Bachhudass alias Balram and others, (2007) 9 SCC 135), we are of the opinion that the present is not a fit case for grant of leave to appeal, because, the view taken by the trial Judge emanates from the state of evidence on record and the same does not appear to be perverse.
6. In view of the above, no case for grant of leave to appeal is made out.
7. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-

(Prashant Kumar Mishra)
Judge

SD/-

(Gautam Chourdiya)
Judge

Ayushi