

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 981 of 2019

- State Of Chhattisgarh Through Police Station Kotwali, District Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

- Prabhu Hathiley S/o Late Jailal Hathiley Aged About 21 Years R/o Saddhu, Vidhan Sabha Premises, Raipur, Police Station Vidhan Sabha, Raipur, District Raipur, Chhattisgarh

--- Respondent

For Petitioner/State : Mr. H. C. Verma, A. G. with Mr. Subhash Yadav,
Dy. G. A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

21/06/2019

1. Heard on application (I.A. No. 1) for condonation of delay in filing the appeal.
2. Upon due consideration, the application is allowed. Delay in filing the appeal is condoned.
3. Heard on prayer for grant of leave to appeal.
4. This appeal against the judgment of acquittal has been filed by the State in which the learned trial Court has acquitted the respondent-accused finding present to be a case of no evidence with regard to the identity of assailant.
5. We have gone through the impugned judgment and the evidence on record and find that not a single witness including the victim has involved the respondent/accused in the alleged commission of offence. Even though, the victim is found to have sustained certain injury, he himself does not involve the respondent and has even refused to identify him. The so-called eyewitness of the case has also not supported and has not involved the respondent. We are afraid as to on what basis the State decided to file this appeal against acquittal. There is absolutely no merit in the application for grant of leave to appeal and the same is accordingly dismissed.
6. Order dated 11.10.2017 passed in CRMP/967/2016 has also been placed before us by the Learned State Counsel to submit that there are directions issued by this Court earlier in the matter of filing of appeals against judgment of acquittal.

7. After going through the aforesaid order, we do not find that there is any direction that appeal against judgment of acquittal is to be filed in each and every case. The decision to file or not to file appeal against judgment of acquittal is required to be taken by the concerned officials according to their own established procedure and guidelines in the applicable manuals and not mechanically either way.
8. We are constrained to make aforesaid observation in the case in hand because it is a case of no evidence and appeal against judgment of acquittal has been filed. We only wish to emphasize that exercise of filing appeal against judgment of acquittal cannot be mechanical. Whether appeal is to be filed or not to be filed shall always be preceded by careful, cautious and serious application of mind by the concerned law officers.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge

Ravi