

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1154 of 2019

- State Of Chhattisgarh Through Police Station Shyang Disrtict-Korba, Chhattisgarh

---- Petitioner

Versus

1. Rajesh Kumar, S/o Bahoran Singh Kanwar, Aged About 26 Years
2. Ramsingh S/o Jagatram Kanwar Aged About 35 Years

Both R/o Village Jhagraha, Dihipara, Balcongar, District- Korba, Chhattisgarh

---- Respondents

For Appellant

Shri Neeraj Mehta, PL

Hon'ble Justice Mr. Prashant Kumar Mishra
Hon'ble Justice Mr. Gautam Chourdiya

Order On Board by Prashant Kumar Mishra J.

10/07/2019

1. On due consideration, IA No.1/2019, application for condonation of delay in filing the CRMP, is allowed and the delay of 74 days in filing the CRMP is condoned.
2. The Trial Court has acquitted the accused persons of the charges under Sections 302 and 177 read with Section 34 of IPC. The allegation against them was of committing murder of deceased Pappu during the intervening night of 18th and 19th January, 2017. Admittedly, there is no ocular evidence to the incident. The case of the prosecution rests on circumstantial evidence in the nature of memorandum statement, seizure and extra judicial confession before PW-3 Khili Bai and PW-4 Anjor Singh.

3. A reading of the statement of PW-3 and PW-4 along with their case diary statements would reveal that they had not informed the Police that the accused persons revealed to them about the incident when they were drunk at Village Jhagraha. In their case diary statement, they have stated that the Police came to their village and informed that the accused persons have made extra judicial confession. Even if this statement is believed, the so called extra judicial confession was in the presence of Police during the interrogation. The witness to the memorandum statement and seizure have also turned hostile.
4. Considering the nature of evidence available, no case for grant of leave to appeal is made out. Accordingly, the CRMP is dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge

Nirala