

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1325 of 2019**

- State Of Chhattisgarh Through Police Station Urga, District Korba Chhattisgarh

---- Petitioner

Versus

- Parasram S/o Shri Shobharam, Aged About 75 Years, Caste Kurmi, R/o Village Bhalpahri Charpara, Police Station Urga, District Korba Chhattisgarh

---- Respondent

For Petitioner/StateMr. Vikash Shrivastava, Panel Lawyer

DB: Hon'ble Mr. Justice Prashant Kumar Mishra &**Hon'ble Mr. Justice Gautam Chourdiya****Order On Board By****Prashant Kumar Mishra, J.****17/7/2019**

1. Heard on IA No.1, an application for condonation of delay of 324 days in filing the application seeking leave to appeal.
2. On due consideration, the application is allowed and the delay is condoned.
3. Also heard on admission.
4. The accused, aged about 75 years, was sent for trial for

committing murder of his wife, aged about 70 years, at 9:00 p.m. on 23.2.2017. The case of the prosecution was based on circumstantial evidence, however, the witnesses of extra judicial confession PW-8 Sukbati Bai and PW-9 Savita Kashyap have turned hostile. Similarly, the witnesses of memorandum statement and the consequent seizure in front of PW-2 Thanturam Kashyap and PW-3 Omshankar Singh have also not been proved as both these witnesses have turned hostile. PW-1 Badriprasad Kashyap, son of the deceased, has clearly stated that at the time of the incident, his father had gone to a different village. Similar statement has been made by PW-2 Thanturam Kashyap .

5. Since the fact of accused being present in the house has not been established, a presumption that when husband and wife were alone in the house and death of one of them takes place, it is the other member who has knowledge of the special fact about the mode and nature of death of the deceased, would not apply in the present case.
6. Considering the evidence available on record, we are not inclined to admit this CRMP and the same is accordingly dismissed.

Sd/-

(Prashant Kumar Mishra)

Judge

Sd/-

(Gautam Chourdiya)

Judge