

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1487 of 2019**

- State Of Chhattisgarh Through Its Station House Officer, Police Station Champa, District Janjgir Champa Chhattisgarh.

---- Petitioner

Versus

- Madandas S/o Tikeshwar Das Mahant Aged About 29 Years R/o Village Bodsara, Police Outpost Naila, Police Station Janjgir, District Janjgir Champa Chhattisgarh.

---- Respondent

For Petitioner :- Shri Vikash Shrivastava, PL

**Hon'ble Shri Prashant Kumar Mishra &
Hon'ble Shri Gautam Chourdiya, JJ.**

Order On Board By

Prashant Kumar Mishra, J

03/07/2019

1. Heard.
2. The default has been removed by filing necessary papers therefore, we have heard Learned State Counsel on admission.
3. The trial Court has acquitted the accused of charge under

Section 302 of I.P.C. for committing murder of deceased Ashok Sahu at about 12 p.m. on 03.08.2018.

4. The deceased and the accused were not known to each other. They happened to meet while they were traveling together from Korba to Champa. After reaching Champa they moved together to a liquor vend and consumed liquor. Thereafter, they were waiting for Bus at the local Bus stand and at this point of time dispute occurred when cigarette ash went into the eyes of the deceased. After brief altercation, the accused allegedly assaulted the deceased by hand, fist and kick as also by club, resulting in death of the deceased.
5. There is no eye-witness to the crime. There is no evidence either of last seen together. The only evidence is of seizure of mobile, SIM card and club. Out of two seizure witnesses i.e. (PW-3) Parmeshwar Sahu and (PW-8) Ganeshram Sahu, one has supported the prosecution but the other one has turned hostile. Since it is not the case of prosecution that the accused made any mobile calls to the deceased over his mobile, seizure of mobile set and SIM card is of no consequence. They would relate to the crime only for the reason that they belong to the deceased but has been recovered from the possession of the accused, however, only this piece of evidence is not sufficient to bring home the charge of murder unless this evidence is collaborated by any

other strong circumstance. Similarly, recovery of club would not assist the prosecution for the reason that during F.S.L. examination, the club was found not having any traces of human blood. The alleged motive is also very weak in nature. There is no medical evidence indicating presence of cigarette ash in the eyes of the deceased.

6. Considering the nature of evidence brought by the prosecution in course of trial, we are satisfied that the trial Court has not committed any illegality in acquitting the accused.
7. There is no substance in this application seeking leave to appeal. Therefore, CRMP deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge