

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 872 of 2013

- State Of Chhattisgarh Through SHO, P.S. Chhura, Distt. Gariyaband, Chhattisgarh

---- **Petitioner**

Versus

- Ishwar Lal Vishwakarma, S/o. Charan Sevak Vishwakarma, Aged About 42 Years, R/o. Vill. Sivnikala, P.S. Kurud, Civil And Rev. Distt. Dhamtari C.G., Chhattisgarh

---- **Respondent**

For Petitioner/State : Shri K.K. Singh, G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava

08.04.2019

1. Heard on application for condonation of delay in filing appeal.
2. Upon due consideration, the application is allowed.
3. Delay is condoned.
4. Also, heard on application for grant of leave to appeal filed by the State.
5. Learned counsel for the State would argue that though there is no direct evidence, it has been proved from the evidence led by the prosecution that deceased Manna Bai died homicidal death, and her dead body was recovered at the instance of the applicant, and further that a mobile phone which belonged to the deceased was also recovered from the possession of the applicant/accused and on the basis of memorandum statement, even then he has been acquitted.
6. We have gone through the impugned judgment of acquittal and the oral and documentary evidence on record, and we find that the prosecution story of the recovery of dead body is not found to be proved at the instance of the accused. Moreover, the witnesses of memorandum and recovery have turned hostile and not supported the prosecution case. The learned trial Court has come to the conclusion that the prosecution story is doubtful, and on this, the accused have been given benefit of doubt and the view taken by the learned trial Court does

not suffer from patent illegality or contrary to any incriminating evidence. The view taken by the learned Trial Court particularly that the witnesses of memorandum and seizure have turned hostile and not supported the case of the prosecution, we find ourselves unable to interfere with judgment of acquittal, keeping in view the limited scope of interference against the judgment of acquittal. We, accordingly, do not consider present to be a fit case to grant leave to appeal.

7. Accordingly, CRMP is dismissed at the admission stage itself.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge