

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1918 of 2019**

- State Of Chhattisgarh Through The Police Station Nagri,
District Dhamtari Chhattisgarh.

---- Applicant

Versus

- Mishrilal Dhruw S/o Harishchandra Dhruw Aged About 26
Years R/o Village Bhothli, Police Station Nagriaraundha
District Dhamtari Chhattisgarh.

---- Respondent

For Applicant :- Shri Pawan Kesharwani, PL

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

Order On Board**By****Prashant Kumar Mishra, J****26/08/2019**

1. On due consideration delay of 35 days in filing of the instant
Cr.M.P. is condoned. Accordingly, I.A. No.01 of 2019 which
is an application for condonation of delay in filing of instant
Cr.M.P. is allowed.
2. The trial Court has acquitted the accused of the charge

under Section 302 of I.P.C.

3. Accused was sent for trial for committing murder of his wife namely Kunti Bai on 05.05.2018. Dead body of the deceased was found inside the forest after three days of the incident.
4. The accused did not make enquiries about his wife for three days and when the villagers found the dead body he went to the place of occurrence along with Durgesh (PW-9) and Fulchand (PW-16). The accused later made extra judicial confession in front of villagers.
5. In course of trial Chandbai (PW-1), mother of the deceased, Pradeep Kumar (PW-2), Pitambar Kunjam (PW-4), Gulab Tiwari (PW-10), Jagdish Ram (PW-7), all witnesses to the extra judicial confession have stated that the alleged confession was made by the accused in the Police Station when the concern Police was interrogating. This statement is not admissible in evidence.
6. Although, Raj Kumar Sori (PW-11), the Investigating Officer has proved the memorandum statement (Ex-P-8) and seizure of towel vide (Ex-P-8) but the independent witness to the said memorandum and seizure namely Jagdish Ram (PW-7) has not supported the prosecution. The seized towel was not sent for FSL examination thus the only

evidence against the appellant is seizure of towel from him but in the absence of same having been found to be blood stained, conviction on the basis of recovery of common household article is not sufficient.

7. In our considered view the prosecution has failed to prove its case, therefore, no case for grant of leave to appeal is made out.
8. In view of above, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi