

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2007 of 2019**

- State Of Chhattisgarh Through Police Station Kharsiya, District Raigarh Chhattisgarh.

---- Applicant

Versus

- Bhushan Kumar Sidar S/o Balram Sidar Aged About 20 Years Caste Sidar R/o Village Bakeli, Police Station Kharsiya, District Raigarh Chhattisgarh.

---- Respondent

For Applicant :- Shri Rajendra Tripathi, PL

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

Order On Board
By

Prashant Kumar Mishra, J.

04/09/2019

1. On due consideration delay of 126 days in filing the Cr.M.P. is condoned. Accordingly, I.A. No.01 of 2019 which is an application under Section 5 of the Limitation Act, 1963 for condonation of delay occurred in filing of the Cr.M.P. is allowed.
2. The trial Court has acquitted the accused of the charge under Section 302 of the I.P.C.

3. The accused was sent for trial for committing murder of deceased Siyaram Kenwat at about 6 p.m. on 23.11.2017. The prosecution relied on the statement of Visheshar Kenwat (PW-1), Raju Kenwat (PW-2) and Lakhanlal Kenwat (PW-9) as also Devanand Gabel (PW-4), who were either eye-witnesses or reached the place of occurrence soon after the incident. While examined in Court Visheshar Kenwat (PW-1) would admit in cross-examination that he had not seen the accused assaulting the deceased by means of *Basula*. Visheshar Kenwat (PW-1) and Raju Kenwat (PW-2) have turned hostile. Lakhanlal Kenwat (PW-9) has projected himself to be an eye-witness but in his case diary statement, he had not informed the Police that he had seen the incident.
4. Considering the lack of conclusive evidence that the accused/respondent has assaulted the deceased, the present does not appear to be a fit case for grant of leave to appeal against acquittal.
5. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-

(Prashant Kumar Mishra)
Judge

SD/-

(Gautam Chourdiya)
Judge