

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1030 of 2014

- State Of Chhattisgarh Through the Distt. Magistrate, Bilaspur, Chhattisgarh

---- Petitioner

Versus

- Ranjan Kumar, S/o Chhatram Rohidas, Aged About 19 Years, R/o Majhgawan, Chowki Belgahna, P.S. Kota, Distt. Bilaspur, Chhattisgarh

---- Respondent

For Appellant

Shri Neeraj Mehta, PL

Hon'ble Justice Shri Prashant Kumar Mishra

Hon'ble Justice Shri Gautam Chourdiya

Order On Board by Prashant Kumar Mishra J.

06/08/2019

1. On due consideration, delay of 4 days in filing the CRMP is condoned. Accordingly, IA No.1 is allowed.
2. The accused was sent for trial for committing murder of his father deceased Surajbhan at about 12 noon on 25.11.2013. Case of the prosecution was not based on any eye witness account or on circumstantial evidence, it was based on the extra judicial confession made in the presence of PW-16 Dukhram and some other witnesses including PW-2 Tribhuvan Ram, PW-4 Bhukhandas, PW-6 Bharat Singh and other villagers. In course of trial, except for PW-16 Dukhram, no other witness has supported the prosecution case. PW-4 Bhukhandas, Kotwar of the village,

has stated that the accused made extra judicial confession in the police station. Even though PW-16 Dukhram has stated that the accused made extra judicial confession but in the merg intimation and at other places, this witness has informed that the accused assaulted the deceased, his own father, because he was outraging the modesty of his aunt.

3. It is settled law that extra judicial confession is a weak piece of evidence, therefore, when other witnesses have not supported the prosecution, the evidence of PW-16 Dukhram has not found sufficient corroboration so as to treat the said evidence as such an evidence which proves the case of prosecution beyond reasonable doubt. Even P-16 Dukhram is not consistent in his statement implicating the accused, because in para 3 of his statement, he denies that he has given his statement to the Police vide Ex-P-31, which carries statement of extra judicial confession. Further, in para 4 of his cross-examination, he says that he had lodged the missing report and came to know on the next date that the dead body of his son has been found in a well. He also admits that immediately after the dead body was found, the Police had taken custody of the accused. Thus, keeping in view the statement of PW-4 Bhukhandas where he says that the accused made extra judicial confession before the Police, it remains doubtful and debatable whether the extra judicial confession stated by PW-16 Dukhram was in the Police Station or in his own house.
4. It is also settled that when two views are possible and the Trial Court has taken one possible view in the matter to acquit the

accused, the High Court while hearing an acquittal appeal is not entitled to take the other view merely because the same view is also possible.

5. No case for grant of leave to appeal is made out. Accordingly, the CRMP is dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge

Nirala