

HIGH COURT OF CHHATTISGARH, BILASPUR

- State Of Chhattisgarh Through Its Station House Officer, Police Station Nandghat, District- Bemetara, Chhattisgarh.

Versus

- Hariprasad Lodhi S/o Dhanu Lodhi Aged About 36 Years Occupation Labour, R/o Village Katalbod, Police Station Nandghat, District Bemetara, Chhattisgarh.

---- Respondent

For Applicant-State :- Shri K.K. Singh, G.A.

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

Order On Board

By

Prashant Kumar Mishra, J.

05/11/2019

1. On due consideration delay of 110 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01 of 2019 which is an application for condonation of delay occurred in filing of the instant appeal is allowed.
2. The trial Court has acquitted the accused of the charge under Section 302 of the Indian Penal Code.
3. Accused was sent for trial for committing murder of deceased

Hincharam on 07.02.2018. There being no eye-witness of the crime, the case of prosecution was based on circumstantial evidence.

4. The appellant allegedly made extra judicial confession in the presence of villagers namely; Rajeshwar Singh (PW-6), Chirounjilal (PW-5), Vijay Kumar Lodhi (PW-1), Fatte Singh Rajput (PW-2) and village Kotwar Bodhiram (PW-7). These witnesses have not supported the case of prosecution as all of them have turned hostile. PW-3 Tularam Lodhi, father of deceased, has deposed that accused's father Dhanau Lodhi (PW-13) has informed him that in the Panchayat meeting Hariprasad Lodhi (accused) has confessed of committing murder, however, when Dhanau Lodhi himself has turned hostile, statement of PW-3 Tularam Lodhi is rendered hearsay evidence which cannot be relied upon. The convener of the meeting, Bodhiram (PW-7), the village Kotwar, has himself turned hostile, therefore, there is no evidence on the basis of which the guilt of the accused could have been proved. In the circumstances, the trial Court's finding does not appear to be perverse.
5. In view of the above, no case for grant of leave to appeal is made out.
6. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge