

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2494 of 2018

- State Of Chhattisgarh Through Station House Officer Police Station Khadgaon, District Rajanandgaon Chhattisgarh

---- Petitioner

Versus

1. Dukaloo @ Umesh Gawade S/o Maniram Gawde, Aged About 28 Years R/o Village Munjal Madanwada, Police Station Madanwada, District Rajnandgaon Chhattisgarh
2. Dhanai @ Anila Markam S/o Mahar Singh Aged About 24 Years R/o Khursekela, Police Station Maanpur District Rajnandgaon Chhattisgarh

---- Respondents

For Petitioner/State : Shri Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

08/02/2019

Heard on I.A.No.1, application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Also heard on prayer for grant of leave to appeal.

Learned State counsel submits that the learned Trial Court has committed patent illegality and perversity in acquitting the respondent/accused even though the prosecution has come out with clinching evidence of the two accused having come to the house of the victim Bhimraj (PW9) and attempting to kill him by gunshot.

Upon perusal of the impugned judgment and the evidence on record particularly, the evidence of the victim – Bhimraj (PW9), we find that the main operative reason for the learned Trial Court to grant benefit of doubt to the respondent-accused is that the victim himself has not supported the prosecution case. He has deposed that some persons had come, threatened and fired at him. But he does not say that it is the respondent/accused who had come and fired at him. He further submits that the respondent / accused are not those who had come to threaten

him and attempted to kill. In our opinion, the finding recorded by the learned Trial Court could not be faulted on any count when the victim himself has not involved the respondent / accused nor he claims to have seen the respondent firing at him. Therefore, no case for grant of leave to appeal is made out.

The application for grant of leave to appeal is rejected. The present CrMP is disposed off.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge