

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2522 of 2018

- State of Chhattisgarh, Through - Police Station Kusmi, District : Raipur, Chhattisgarh

---- **Petitioner**

Versus

- Bhuneshwar Mahanand @ Bhonu @ Monu, S/o Beniram Mahanand R/o Village Pithora (Jangora), Police Station Pithora, District – Mahasamund, Chhattisgarh., Presently Residing At Infront of Paal Bada, Sanjay Nagar, Police Station Tikarapara, Raipur, District : Raipur, Chhattisgarh

---- **Respondent**

For Petitioner/State : Shri Anand Verma, Dy.G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava

19.03.2019

1. Heard on application for condonation of delay in filing appeal.
2. Upon due consideration, the application is allowed.
3. Delay is condoned.
4. Also, heard on application for grant of leave to appeal filed by the State.
5. Learned counsel for the State would argue that though two prosecution witnesses PW-6 and PW-8 both have deposed that in the night the deceased Ramdeep had come in his auto along with respondent/accused and thereafter, left the company of these two witnesses, and, later on, a knife was recovered on the memorandum of the appellant, which was found to be blood stained. Learned trial Court has acquitted the respondent/accused by giving him benefit of doubt whereas, the aforesaid chain of circumstance clearly points towards the guilt of the respondent/accused by completing the chain of circumstance.
6. We have gone through the judgment of the learned trial Court and also perused the evidence.
7. The evidence of PW-6 and PW-8 shows that when deceased Ramdeep had arrived near a square in the night, he had an altercation and quarrel with PW-8. This has been stated by both PW-6 and PW-8. There is no allegation of any kind

of quarrel between the respondent/accused and the deceased. PW-9 is the sole independent prosecution witness, examined to support prosecution case of recovery of knife, at the instance of the respondent/accused, but in his cross examination, it has been admitted that no knife has been recovered in his presence. There is no evidence of any motive and the knife which has been seized was not found to be stained with human blood.

8. Taking into consideration the aforesaid material on record, the learned trial Court came to the conclusion that the prosecution case is based on the last seen of the respondent/accused, and the Court below has acquitted the respondent by giving him benefit of doubt. Present is a case of circumstantial evidence. With that kind of evidence, the prosecution has come out with a case on the basis of last seen evidence without there being any other clinching evidence on record. According to us, the view taken by the trial Court is a plausible view and in the absence of there being any patent illegality and perversity, we are not inclined to grant leave to appeal. Therefore, the finding of the learned trial court does not suffer from any patent illegality, perversity so as to warrant interference by this Court, keeping in view the limited scope of interference against the judgment of acquittal. We, accordingly, do not consider present to be a fit case to grant leave to appeal.
9. Accordingly, CRMP is dismissed at the admission stage itself.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge