

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2602 of 2019

- State of Chhattisgarh Through- Station House Officer, Police Station Nandghat, District- Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh

---- Appellant

Versus

- Mukesh @ Manki Bandhe S/o Shatruhan Bandhe, Aged About 23 Years, Occupation Labour, Resident of Village Raveli, Police Outpost Chandanu, Police Station Nandghat, District- Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh

---- Respondent

For Appellant/State – Shri Chitendra Singh, Panel Lawyer.

D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

02-12-2019

Heard.

By this application the State prays for grant of leave to appeal against the judgment of acquittal dated 29-04-2019 by which the respondent/accused has been acquitted of charges of commission of offence under Section 302 and 201 of the IPC.

Learned counsel for the State would argue that even though there is no eye-witness, the prosecution has succeeded in proving a strong circumstantial evidence of recovery of mobile of the deceased at the instance of the respondent/accused. It was argued that two prosecution witnesses namely Jhumuk Lal Sahu (PW-8) and Sanjay Kumar Bandhe (PW-9) both have deposed regarding recovery of mobile of the deceased from the possession of the respondent/accused and therefore the respondent/accused in absence of any explanation as to how he came in possession of the mobile set of the deceased in the background of the allegations against him, has been wrongly acquitted.

We have gone through the impugned judgment, evidence on record.

Learned trial Court in order to grant benefit of doubt to the respondent/accused has taken into consideration that the prosecution case is not based on eye-witness account, that the case rests only on the so called recovery of the mobile set to be made from the possession of the respondent/accused irrespective of the credibility of the evidence of the witnesses of seizure, that by itself without anything more has rightly been made a basis to hold that the prosecution has failed to prove its case by leading clinching evidence proving guilt beyond doubt. The prosecution case only seems to be based on recovery of mobile phone. In view of that, we do not find a good ground to interfere with the impugned judgment. Therefore, the application is rejected.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajendra Chandra Singh Samant)
Judge