

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 150 of 2019

State Of Chhattisgarh, Through Station House Officer, Police Station Bango,
District Korba, Chhattisgarh ---- **Petitioner**

Versus

Sukhiram Kundu S/o Gadadhar Kundu Aged About 31 Years R/o Khariyaguda,
District Ganjam Odisha., District : Ganjam, Orissa ---- **Respondent**

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

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

06/03/2019

Heard on (I.A. No.1) application for condonation of delay in filing application for grant of leave to appeal.

Upon due consideration, delay in filing application for grant of leave to appeal is condoned.

Also heard on prayer for grant of leave to appeal.

1. Learned counsel for the State would argue that the prosecution came out with the evidence of Premprakash Kurmi (PW3) that the appellant and the deceased who were employed and working in a private construction company used to reside in one single room and further that a day before, the dead body of Jitendra was found on the road, in the shop of Abhishek Kaushik (PW7), the appellant and Jitendra had quarreled and this witness also states that he heard that they had also quarreled in the liquor shop.
2. Learned State counsel would further argue that Ajay Rawat (PW4), another co-accused, has stated that in the night before the date of incident, the appellant had left the night duty and thereafter, did not come back and brother of the deceased Mahendra (PW9) has deposed that his brother Jitendra had called him to inform that there was quarrel between him and the appellant arising out of dispute with regard to repayment of loan.

3. After going through the impugned judgment of acquittal passed by learned Trial Court, we find that learned Trial Court has granted benefit of doubt to the respondent accused because except the aforesaid evidence, there is no other material incriminating circumstance to draw inference the appellant must have killed the deceased.

4. We also find that the aforesaid set of evidence alone has been led by the prosecution to prove its case. To our mind, the aforesaid set of evidence may lead to strong suspicion which has failed to translate into truth of the appellant's involvement, because to lead to the inference based on circumstantial evidence that in all probability, it is the respondent and respondent alone who must have killed the deceased, something more has to be proved by the prosecution to bring home the guilt of the appellant.

5. The conclusion arrived at by learned Trial Court does not appear to be suffering from any patent illegality more so when present is a case only on circumstantial evidence, keeping in view the well settled legal position with regard to the burden which the prosecution required to discharge to bring home the guilt in cases where entire prosecution case is based on circumstantial evidence. Taking into consideration the limited scope of interference in an appeal against acquittal, in the absence of there being any perversity or patent illegality, we do not find any scope of interference with the impugned judgment of acquittal.

6. Accordingly, the CRMP is dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge