

HIGH COURT OF CHHATTISGARH, BILASPUR

- State Of Chhattisgarh, Through The Station House Officer, Police Station Kusmi, District Balrampur Ramanujanj Chhattisgarh.

Versus

- Mohan Nageshiya, S/o Late Pendra Nageshiya, Aged About 66 Years R/o Village Motinagar, Police Station Kusmi, District Balrampur Ramanujganj Chhattisgarh.

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For Applicant-State :- Ms. Fouzia Mirza, Addl. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Gautam Chourdiya
Order On Board

By

Prashant Kumar Mishra, J.

19/05/2020

1. On due consideration delay of 67 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01/2020, application for condonation of delay is allowed.
2. The trial Court has acquitted the accused of the charges under Section 302 of the I.P.C.
3. Accused was sent for trial for committing murder of his wife – Sudhani Bai on 24.09.2017.
4. Case of the prosecution was based on the extra judicial

confession made by the accused before PW-3 Ishwar who happens to be accused's son residing separately. There is another witness namely; Rajkumar Nageshiya (PW-4) who also made statement amounting to extra judicial confession by the accused. In addition, prosecution relied on the FSL report in which the weapon recovered from the accused pursuant to his memorandum statement was found blood stained.

5. In course of trial, PW-3 Ishwar turned hostile but thereafter supported the prosecution during first part of his cross-examination. However, later he again refused to support the prosecution case and at the same time also refused to have given diary statement to the Police concerning the fact of extra judicial confession made by the accused. PW-4 Rajkumar Nageshiya makes statement as if the accused made extra judicial confession in the presence of the Police. Although, the FSL report is positive but in the absence of Serological report, the origin of blood is not established. Moreover, there is no evidence proving presence of the accused in the house at the time when Sudhani Bai was murdered.
6. Considering the evidence on record, the present is not considered to be a fit case for grant of leave to appeal.
7. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge