

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 902 of 2020**

1. State of Chhattisgarh, Through Police Station Kotraroad, District Raigarh (C.G.).

---- Petitioner**Versus**

1. Usatram Khadiya @ Dokri S/o Pusauram Khadiya, aged about 50 Years, R/o School Para, Village Banhar, Police Station Kotraroad, District Raigarh (C.G.)

---- Respondent

For Petitioner : Ms. Fouzia Mirza, Addl. Advocate General

Hon'ble Shri Justice Prashant Kumar Mishra**Hon'ble Shri Justice Gautam Chourdiya****Order by Justice Prashant Kumar Mishra****15/07/2020**

- 1) The matter is heard through video conferencing.
- 2) Heard on I.A. No. 01/ 2020.
- 3) This is an application for condonation of delay in filing the Cr.M.P.
- 4) On due consideration, delay of 240 days in filing the present Cr.M.P. is condoned. Accordingly, I.A. No. 01/2020 is allowed.
- 5) The Trial Court has acquitted the accused/respondent of the charges under Sections 302 and 201 of IPC and under section 25(1)(a) & 27(3) of Arms Act vide judgment dated 29/07/2019 passed by the learned 5th Additional Sessions Judge, Raigarh (C.G.) in Sessions Trial No. 108/18.
- 6) The accused was sent for trial for committing murder of deceased Paluram @ Lakhani Yadav in the morning of 02/07/2018.
- 7) Case of the prosecution was based on circumstantial evidence in

the nature of accused's memorandum statement and recovery of blood stained iron chopper and underwear as also the evidence of seeing the accused moving around with the chopper a day prior to the incident.

- 8) PW-01 Devnarayan Yadav, brother of the deceased had seen the accused brandishing an axe in the village on 01/07/2018 openly claiming that he would commit murder of the deceased. However, this evidence would not amount to last seen together. Similarly, the memorandum statement Ex. P-8 has not been supported by the independent witnesses and Serological report Ex. P-21 is negative for origin of blood found over the seized articles.
- 9) Evidence adduced by the prosecution is not so clinching as to establish the chain of circumstantial evidence, therefore, no case for grant of leave to appeal is made out.
- 10) Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

-Sd/-
(Prashant Kumar Mishra)
Judge

-Sd/-
(Gautam Chourdiya)
Judge