

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1387 of 2020**

- State Of Chhattisgarh, Through Station House Officer, Police Station Durgukondal, District : North Bastar Kanker, Chhattisgarh

---- **Petitioner****Versus**

- Pardeshiram, S/o Hiranman, Aged About 38 Years, R/o Village Hilchur, Police Station Durgukondal, District : North Bastar Kanker, Chhattisgarh

Respondent

For Appellant/State : Mr. K.K. Singh, Dy.G.A.

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order on Board****Per Manindra Mohan Shrivastava****07/12/2020**

Heard.

1. There is prayer for grant of leave to appeal against the judgment of acquittal dated 03.01.2020 passed by the Court of the Learned Additional Sessions Judge, Bhanupratappur, District – North Bastar Kanker, C.G. in Sessions Case No.37/2019, by which, the respondent/accused is acquitted of the charges of commission of Offences under Section 302 read with Section 34 & Section 302 read with Section 120 (B) of the IPC.
2. Learned counsel for the State would argue that even though the prosecution has proved the guilt of the accused by leading eye-witness

account of the incident given by Shriram (PW-4), the learned trial Court has rejected the said evidence disbelieving only on the ground of delay.

He would also submit that the evidence of this witness is also that respondent/co-accused Pardeshi and another's had an axe to grind against the deceased and they had calculatively assaulted the deceased to kill.

3. The learned trial Court has disbelieved the testimony of the sole eye-witness of the case, Shriram (PW-4) recording reasons in Para 25, 26, 27, 28 and 29. One of the most important consideration for the learned trial Court to disbelieve the testimony of the sole eye-witness has been that this witness did not whisper to anybody in the village nor did go to police station to inform commission of the offence for a period of one month. Learned trial Court having found that there is no other corroborative evidence including motive because other prosecution witness have not stated regarding any basis for enmity between the deceased and Pardeshiram, acquitted the accused by giving benefit of doubt.

4. We do not find any exception with the approach of the learned trial Court in appreciating the evidence of the sole eye witness Shriram (PW-4). The entire case of the prosecution, as far as Pardeshiram is concerned, registered on the sole testimony of Shriram (PW-4). However, he is one witness who has not disclosed the incident to anybody for one month. This, in our opinion, by itself, was sufficient to create doubt on the veracity of the testimony of such a witness. The case required either corroboration or any other independent witness to prove the offence which the prosecution failed to lead as against respondent Pardeshiram.

The impugned judgment also shows that other co-accused have already been acquitted of the charges.

5. Therefore, it is not a fit case for grant of leave to appeal. Accordingly, application is rejected.

6. CRMP is accordingly closed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge