

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 107 of 2020**

- State Of Chhattisgarh Through Station House Officer, Police Station Pasan, District Korba Chhattisgarh.

---- Applicant

Versus

1. Jawahir Agariya S/o Late Jagatram Aged About 40 Years R/o Village Rampur, Masaniyapara, Police Station Pasan, District Korba Chhattisgarh.
2. Ramchet Agariya S/o Late Patiram Aged About 50 Years R/o Village Rampur, Masaniyapara, Police Station Pasan, District Korba Chhattisgarh.
3. Rajaram Agariya S/o Late Ghuran Aged About 30 Years R/o Village Rampur, Masaniyapara, Police Station Pasan, District Korba Chhattisgarh.

---- Respondents

For Applicant-State :- Shri Chitendra Singh, PL

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

By**Prashant Kumar Mishra, J.****17/01/2020**

1. On due consideration delay of 55 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01/2019, for condonation of delay is allowed.

2. The trial Court has acquitted the accused persons of the charges under Sections 302, 201 read with Section 34 of the I.P.C.
3. The accused persons were sent for trial for committing murder of deceased- Shivratan at about 4 a.m. on 13.10.2018. Prosecution case was based on circumstantial evidence in the nature of last seen together by PW-8 Ramlal and the extra judicial confession of accused – Jawahir Agariya in the presence of witness Tribhuvan (PW-4).
4. Having appreciated the entire evidence, the trial Court has recorded the finding that even if, statement of PW-8 Ramlal is believed, the same may not be sufficient to establish that accused persons have committed murder because there is no corroborative evidence in the nature of seizure of any weapon or motive for committing murder of Shivratan (deceased).
5. In view of the settled legal position that when two views are possible in the case and the trial Court has taken one of the views, the judgment of acquittal should not be converted into a judgment of conviction. (See : **State of M.P. Vs. Bachhudas alias Balram and others**, (2007) 9 SCC 135), we are of the opinion that the present is not a fit case for grant of leave to appeal, because, the view taken by the trial Judge emanates from the state of evidence on record and

the same does not appear to be perverse.

6. Having seen the evidence, we are satisfied with the view taken by the trial Court is one possible view in the matter.

7. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi