

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.517 of 2020

State Of Chhattisgarh Through The Incharge, Police Station Gandhinagar,
District- Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner

Versus

1. Kamta Prasad Vaishnav S/o Gangadas Aged About 25 Years Resident Of Village Bhakura Bakhpara, Police Station Ambikapur, District- Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
2. Bobby Rajwade W/o Late Ramnaresh Rajwade Aged About 20 Years S/o Gangadas, Resident Of Village Bhakura Bakhpara, Police Station- Ambikapur, District- Surguja Chhattisgarh

---- Respondents

For State/Petitioner : Mrs. Fouzia Mirza, Additional A.G.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

01/04/2021

1. Heard on prayer for condonation of delay in filing appeal as well as prayer for grant of leave to appeal.

2. Even if we were inclined to condone the delay in filing the instant appeal, we do not find any good ground to grant leave to appeal for the reasons that acquittal of the accused is based on minute scrutiny of the circumstantial evidence led by the prosecution, present being a case where there was no eyewitness. The witnesses of the extra-judicial confession Somar Sai (PW-2) & Nandlal (PW-23) have been disbelieved on the ground that these persons never disclosed the incident to anybody that the accused had committed offence before them. They being suspect were taken into custody by the police and after more than a week, it is said that these persons gave statement regarding extra-judicial confession given by the accused before them. Further as far as recovery of mobile and cycle of the deceased is concerned, the person from whom it was seized has not supported the prosecution case and though learned counsel for the State would submit that the witnesses of the memorandum and seizure have supported the prosecution case, the evidence of identification of the article is not based on any specific identification nor contents of

mobile, SIM, IMEI number have been retrieved to prove that it belonged to the deceased. Thus the totality of the circumstantial evidence led by the prosecution failed to form complete chain leading to eventual acquittal of the accused. Therefore, we do not find any ground to interfere with the judgment of acquittal.

3. The CRMP has no merit and is therefore dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Narendra Kumar Vyas)
Judge