

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 858 of 2019**

- State Of Chhattisgarh Through Station House Officer, Police Station Khadgaon, District : Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. Dukuloo @ Umesh Gawade S/o Maniram Gawde Aged About 28 Years R/o Village Munjal, Police Station Madanwada, District : Rajnandgaon, Chhattisgarh
2. Dhanaaya @ Anila Markam D/o Mahar Singh Aged About 24 Years R/o Khursekela Police Station Maanpur, District : Rajnandgaon, Chhattisgarh

--- Respondents

For Petitioner/State : Mr. Mateen Siddiqui, Dy. A.G.

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order on Board****Per Manindra Mohan Shrivastava****22.02.2021**

Heard.

1. There is prayer for grant of leave to appeal against the judgment of acquittal dated 05.04.2018 passed by the Court of learned First Additional Sessions Judge, Rajnandgaon, District – Rajnandgaon (CG) in Sessions Case No.48/2017, by which, the respondents/accused is acquitted of the charges of commission of offences under Sections 147/149, 148/149, 307/149 of IPC and Section 25/27 of the Arms Act.
2. Even if we are inclined to condoned delay, we do not find any substance in the application seeking of leave to appeal, because there is neither any evidence of identification of the accused nor recovery of any weapon or any other incriminating article.

3. The submission of learned counsel for the State that during cross firing various names were being uttered by the team of naxalites which included the team of the respondents/accused also, has been duly considered by learned trial Court but the learned trial Court has come to the conclusion that only that basis conviction can not be ordered. In the absence of any material evidence, the view taken by the learned trial Court does not warrant interference against the judgment of acquittal, as settled in catena of decisions of Apex Court and this Court. Accordingly, application is rejected.

4. CRMP is accordingly closed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge