

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 470 of 2021**

- State Of Chhattisgarh Through Station House Officer, Police Station Golbazar, Raipur, District Raipur Chhattisgarh

---- Petitioner**Versus**

- Mangal Singh S/o Heera Singh Aged About 40 Years R/o Bandhwapara, Lakhenagar, Police Station Purani Basti, Raipur, District Raipur Chhattisgarh

--- Respondent

For Petitioner/State : Mr. Ravish Verma, G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****08/06/2021**

1. Heard on application for condonation of delay in filing the appeal.
2. In view of office report, the period of lockdown has to be excluded therefore the application is treated to be within limitation. Application for condonation of delay is accordingly disposed off as unnecessary.
3. Also heard on application for grant of leave to appeal.
4. Learned State Counsel would submit that though the prosecution led a tenable and reliable electronic evidence in the form of CCTV footage which clearly shows the person seen behind the building catching fire resulting in death of at least three persons, the learned trial Court has wrongly disbelieved the electronic evidence with regard to the presence of the respondent-accused behind the building in question around the time when it caught fire resulting in death. He would submit that even though there is no direct evidence in the form of any eyewitness having witnessed respondent-accused setting the building on fire, an electronic evidence coupled with the evidence of reliable part of the evidence of the hostile evidence of Zameel Sagar @ Ramu proves the prosecution case beyond reasonable doubt and build up a case beyond doubt.

5. We have given our anxious consideration to the submission of learned State Counsel and perused the relevant evidence including the evidence of Zameel Sagar @ Ramu and material with regard to electronic evidence and finding recorded by the learned Court below.
6. The operative reason and material basis for the learned trial Court to acquit the respondent-accused by giving him benefit of doubt has been lack of reliable evidence. As far as electronic evidence in the form of CCTV footage is concerned, the learned trial Court elaborately dealt with and made observation on such evidence. Learned trial Court disbelieved the evidence as not reliable because firstly prosecution has failed to lead admissible evidence to lay credence and reliability to the electronic evidence and even forensic test was not conducted. Original DVR was not produced. Even if, without that it could be relied upon, in any case, the prosecution witness and court's own scrutiny of the electronic evidence shows that the face of the person who was seen behind the building, which was set on fire, itself is not clear. Thus, there was no clinching evidence found by the learned trial Court to connect the accused with alleged commission of offence. Even in the CCTV footage nothing is seen as some person setting the building on fire. There is no reliable evidence led by the prosecution against the respondent-accused to prove his guilt beyond reasonable doubt. The prosecution evidence was found falling short of the reliable and substantive evidence to convict the accused for serious allegation of murder by setting the building on fire.
7. In our consideration, there is no perversity or patent illegality in the finding of the learned trial Court that the prosecution has failed to prove its case beyond reasonable doubt. Given limited scope of interference against judgment of acquittal, we find ourselves unable to interfere with the well reasoned judgment of the trial Court in the absence of any clinching evidence to bring home guilt.
8. The application for grant of leave to appeal, therefore, deserves to be dismissed and the same is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge