

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.1145 of 2020

State Of Chhattisgarh Through - Station House Officer, Police Station
Mohan Nagar, Durg, District - Durg (Chhattisgarh) ---- **Petitioner**

Versus

1. Madhuri Gharde, D/o Shailesh Gharde Aged About 25 Years Resident Of
Sikola Basti, Near Satyam School, Ward No. 15, Police Station Mohan
Nagar, Durg (Chhattisgarh)
2. Ashwin Gharde, S/o Shailesh Gharde, Aged About 21 Years Resident Of
Sikola Basti, Near Satyam School, Ward No. 15, Police Station Mohan
Nagar, Durg (Chhattisgarh) ---- **Respondents**

For State/Petitioner : Ms. Hamida Siddiqui, Dy. A.G.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

11/01/2021

Heard on application for grant of leave to appeal.

1. Even if we were inclined to condone delay in filing application, we do not find any merit in the application.
2. Learned State counsel would argue that there is overwhelming evidence on record to prove that in the night of the incident, the deceased was brought to his house in drunken state and a witness has also stated that the witness overheard the voices of quarrel between the deceased and his own family members. One towel which was used to strangle the deceased to death was recovered from the house of the accused on the memorandum which was also relied upon by learned trial Court. Homicidal death is supported from the evidence of the witness, who has said that he had seen the dead body inside the house. Evidence of these witnesses completes chain of circumstantial evidence to prove that in all probability the accused alone must be committed murder because he has not come out with any explanation as to how deceased sustained injury and died homicidal death.
3. We have heard the submission of learned counsel for the State. After

going through the impugned judgment and evidence of the witnesses, we find that all witnesses except one have invariably stated that the dead body was found outside the house. There is ample evidence on record to show that the deceased was in drunken state and he had entered into quarrel with neighbours and the residents of the area on that night. Further evidence is that the deceased was having lot of dispute with other person and there were criminal cases pending against him and he had become a sore in the eyes of others in the society. The evidence of witnesses, who have stated that he overheard voices of quarrel of the deceased with his own family members, upon cross-examination, has stated that he cannot say where the voices relating to quarrel were between the deceased and his family members or the deceased with other persons. This upon appreciation in the backdrop of overwhelming evidence of deceased having quarrel and dispute with other persons outside the family has been considered in proper perspective by the learned trial Court. Merely, on the evidence of recovery of towel, which can be said to have been used for strangulating, by itself, without any other clinching evidence with regard to dead body found within the house or any one witnessing the quarrel between the deceased and his own family members and without proof of any motive as to why the deceased would be kill his own family members, in the backdrop of evidence of deceased having serious dispute and quarrel in that night with the person outside the family, has been made a basis by the trial Court to record a finding that the case of the prosecution is not free from doubt and benefit should go the accused.

4. In our opinion, judgment of the trial Court is well considered and cannot be said to be suffered from any patent illegality and perversity so as to warrant interference. Therefore, the application is rejected.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge