

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 1138 of 2020**

- State Of Chhattisgarh Through - Police Station Nandghat, District Bemetara (Chhattisgarh)

---- Petitioner

**Versus**

- Gaukaran Sonwani S/o Gappu Sonwani Aged About 53 Years Resident Of Bramhan Khapri, Police Station Nandghat, District Bemetara (Chhattisgarh)

---- Respondent

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For Petitioner / State : Shri Lalit Jangde, Dy.G.A.

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**D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava**  
**Hon'ble Smt. Justice Vimla Singh Kapoor**

**Order On Board****03/02/2021**

Heard on prayer for grant of leave to appeal.

We do not find any merit in this case as the acquittal of the accused is result of prosecution failing to lead any substantive evidence of incriminating nature and the only basis on which leave is sought is that the accused was absconding and he was arrested after about 5 months. He submits that after his arrest, his memorandum was recorded in the presence of the witnesses by the police in which, accused had confessed that he killed the deceased.

The so called confession of the accused before the police is clearly not admissible in evidence. Learned State counsel could not dispute that on the basis of memorandum, no incriminating material evidence was collected involving the accused. Merely because the accused remained absconded for a long time, without anything more, would not by itself translate into evidence. Therefore, we do not find any merit in this petition. The CrMP is, accordingly, dismissed.

Sd/-

**(Manindra Mohan Shrivastava)**  
**Judge**

Sd/-

**(Vimla Singh Kapoor)**  
**Judge**