

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 177 of 2020

State Of Chhattisgarh Through - Police Station Dabhra, District :
Janjgir-Champa, Chhattisgarh

---- **Petitioner****Versus**

Rishi Kumar Nishad S/o Jagmohan Aged About 21 Years R/o -
Thangan, P.S. Dabhra, District : Janjgir-Champa, Chhattisgarh

--- **Respondent**

For Petitioner/State : Mr. K.K. Singh, G.A.

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

Per Manindra Mohan Shrivastava

09.03.2021

Heard.

1. There is prayer for grant of leave to appeal against the judgment of acquittal dated 13.09.2019 passed by the Court of learned First Additional Sessions Judge, Sakti, District – Janjgir – Champa, (CG) in Sessions Trial No.19/2018, by which, the respondent/accused is acquitted of the charges of commission of offences under Sections 302 and 201 of the IPC.
2. Even if we are inclined to condone the delay, we do not find any merit in this appeal because the entire case of the prosecution was based on certain circumstantial evidence which could not be proved.
3. Though it is said that there is a quarrel between the deceased and his son, in the absence of there being any other proof of incriminating circumstantial evidence, it cannot be said that the prosecution has succeeded in establishing chain of circumstances warranting inference against the accused. The evidence of so-called recovery of footwear has

also led to nowhere much less an evidence of the fact that the footwear matched with the footwear found in the house much less is that of the accused. Recovery of rope also is inconsequential because there is no medical report of any ligature mark in the neck of the deceased coupled with expert report that such ligature mark could be caused by the rope said to have been seized. Even the recovery of rope on the memorandum of the appellant itself is doubtful. In this backdrop, the view taken by the learned trial Court that the prosecution has failed to prove circumstantial evidence warranting inference against the accused is quite plausible and plausible warranting no interference by this Court, given the limited scope of interference against the judgment of acquittal. We, accordingly, do not consider present to be a fit case to grant leave to appeal. Accordingly, application is rejected.

4. CRMP is accordingly closed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge