

State Of Chhattisgarh Through Station House Officer Vs Md. Imtiyaz Khan @ Saddam

Court: Chhattisgarh High Court

Date of Decision: Sept. 18, 2019

Acts Referred: Indian Penal Code, 1860 " Section 201, 302

Hon'ble Judges: Prashant Kumar Mishra, J; Gautam Chourdiya, J

Bench: Division Bench

Advocate: Madhunisha Singh

Final Decision: Dismissed

Judgement

Prashant Kumar Mishra, J

1. Heard.

2. On due consideration, delay of 151 days in filing the present Cr.M.P. is condoned. Accordingly, I.A. No.1 is allowed.

3. The trial Court has acquitted the accused of the charges under Sections 302 and 201 of IPC.

4. The accused was sent for trial for committing murder of 7 year old girl, Shadia Fatima at about 2:00 pm on 10.05.2016. Case CRMP No. 446 of

2019 of the prosecution was based on the statement of PW-1, Zabin Begum, PW-2, Maulana Basheer, and PW-3, Mumtaz. In addition, memorandum

statement of the accused and consequent recovery of knife (Ustara) were also pressed into service. In the charge-sheet the prosecution did not refer

the above named 3 witnesses to be eye witnesses, yet PW-3, Mumtaz deposed in the Court that she has witnessed the accused committing murder of

her step daughter, Shadia Fatima. Neither in the Dehalti Nalasi lodged by PW-2, Maulana Basheer, nor in the case diary statement of PW-3, Mumtaz,

or any other witnesses, they informed the police about name of the assailant. Thus there is material omission in the diary statement of PW-3, Mumtaz,

which is fatal to the case of the prosecution.

5. Due to lack of cogent evidence the trial Court has rightly acquitted the accused of the charges under Sections 302 and 201 of IPC.

6. No case for grant of leave to appeal against the acquittal is made out.

7. Accordingly, the present Cr.M.P. deserves to be and is hereby dismissed.