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(2019) 09 CHH CK 0119

Chhattisgarh High Court

Case No: Criminal Miscellaneous Petition (CRMP) No. 446 Of 2019

State Of Chhattisgarh Through Station House Officer

APPELLANT

Vs

Md. Imtiyaz Khan @ Saddam

RESPONDENT

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.