

(2019) 07 CHH CK 0098
In the Chhattisgarh High Court
Case No : CRMP No. 1177 Of 2019

State Of Chhattisgarh

APPELLANT

Vs

Mahesh Kumar Kushwaha

RESPONDENT

Date of Decision : 15-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 201, 302

Citation : (2019) 07 CHH CK 0098

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

Bench : Division Bench

Advocate : K.K. Singh

Final Decision : Dismissed

Judgement

Prashant Kumar Mishra, J

1. This application has been preferred against the judgment of acquittal dated 25.1.2019 passed by the Additional Sessions Judge, Ramanujganj, District Balrampur-Ramanujganj in ST No.109/2013 whereby the respondent/accused has been acquitted of the charge under Section 302 & 201 of the IPC.

2. Deceased Jeetbandhan Kushwaha was murdered at about 8.30 CRMP No. 1177 of 2019 pm on 15.5.2009. The concerned police was not able to trace the accused, as no evidence was available. After about 2 years, family members of the deceased allegedly received a SMS that the sender has murdered Jeetbandhan Kushwaha and if Rs.2 lakhs are not paid, other family members would also be murdered. The SMS was found to have been sent by the accused, therefore, he was arrested and his memorandum statement was recorded pursuant to which knife was recovered from his possession. Except for this evidence, there is no other incriminating circumstance against the accused. The prosecution has not collected electronic evidence to prove that the SMS was sent from the mobile number owned or possessed by the accused.

3. Since the case was based on circumstantial evidence, the trial Court has

opined that the chain of circumstantial evidence is not so complete so as to point towards the guilt of the accused.

4. Having gone through the evidence, we are not inclined to allow the prayer for leave to appeal.

5. The CrMP is accordingly dismissed.