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**(2019) 09 CHH CK 0033**

**Chhattisgarh High Court**

**Case No:** Criminal Miscellaneous Petition (CRMP) No. 653 Of 2017

State Of Chhattisgarh

APPELLANT

Vs

Samay Lal

RESPONDENT

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**Date of Decision:** Sept. 4, 2019

**Acts Referred:**

- Indian Penal Code, 1860 - Section 302
- Evidence Act 1872 - Section 106

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

**Bench:** Division Bench

**Advocate:** Pawan Kesharwani

**Final Decision:** Dismissed

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**Judgement**

Prashant Kumar Mishra, J

1. Heard.

2. The trial Court has acquitted the accused of the charge under Section 302 of IPC.

3. The accused had allegedly committed murder of his wife Pyaro Bai at about 1:00AM on 22.11.2015.

4. Case of the prosecution mainly rests on the statement of PW-3 Shobhan, son of the appellant, but he has not supported the CRMP No. 653 of 2017

case of the prosecution. Other witnesses have derived information from Shobhan, however, once Shobhan would not support the prosecution, the

statements of other witnesses become hearsay. PW-8 Smt. Anita would state that at the time of occurrence, the accused was not in his house,

therefore, the principle under Section 106 of the Evidence Act would not apply against the accused.

5. Although the witnesses to the memorandum and seizure have partially supported the prosecution case, the conviction for committing murder cannot be based solely on the evidence of memorandum statement and seizure.
6. No case for grant of leave to appeal against acquittal is made out.
7. The CRMP is dismissed.