
(2019) 02 CHH CK 0307

Chhattisgarh High Court

Case No: Criminal Misc. Petition No. 55 Of 2019

State Of Chhattisgarh

APPELLANT

Vs

Deepak Shrivastav

RESPONDENT

Date of Decision: Feb. 19, 2019

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 378(3)
- Indian Penal Code, 1860 - Section 304

Hon'ble Judges: Ram Prasanna Sharma, J

Bench: Single Bench

Advocate: Ravish Verma

Final Decision: Dismissed

Judgement

Ram Prasanna Sharma, J

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.
2. On due consideration, the application is allowed and the delay of 12 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition is preferred against the judgment of acquittal dated 30.8.2018 passed by Additional Judge to the Court of First Additional Sessions, Dongergarh, Distt. Rajnandgaon (CG) passed in Session Trial No.08/2017 wherein the said Court acquitted the respondent for the charges under Section 304 Part-II of the Indian Penal Code.
5. The respondent was charge sheeted for said offence for pushing one Smt. Girija Bai by both his hands resulting which she fell down in the ground

and when was admitted in the hospital she was declared dead. Dr. Suchita Shrivastava (PW-11) who conducted the autopsy of deceased Girija Bai

deposed that cause of death is respiratory failure within 24 hours of the examination.

6. To substantiate the charges, Kunthi Bai (PW-5) deposed that when she reached to the spot, Girija Bai was lying on the ground and thereafter she

was shifted to the hospital. This witness is unable to say how Girija Bai was fell down. Sapna Vishwakarma (PW-6) deposed that Girija Bai sustained

injury due to fall, but she deposed that she did not see Girija Bai fall on the ground. Jyoti Vishwakarma (PW-7) is also enable to say as to how Girija

Bai fell down. Pooja Upadhyaya (PW-8) did not depose regarding the incident. Shyam Bai (PW-9) deposed that she has been informed that some

woman fell down on the ground, but she is not aware what had really happened. All the witnesses examined by the prosecution are unable to establish

any role played by the respondent in falling of said Girija Bai.

7. Looking to the entire evidence on record participation of the respondent in crime in question is not established. That is why the trial Court recorded

on the finding of the acquittal. After going through the record, this Court has no reason to record a contrary finding. It is not a case where the

respondent should be called for full consideration of the matter.

8. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.