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HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P.No.938 of 2014**

- State Of Chhattisgarh, Through the Station House Officer, Police Station-Koni, District-Bilaspur (C.G.)

---- Applicant**Versus**

1. Sumit @ Rinku Yadav S/o. Ashok Yadav, Aged about 21 years,
2. Prakash Yadav @ Chota S/o. Santosh Yadav, Aged about 22 years
3. Amit Yadav @ Pinku Yadav S/o Ashok Yadav Aged about 22 years.

All are R/o.Village Birkona, P.S. Koni, District-Bilaspur (CG)

---- Respondents

For Applicant	: Mr.Satish Gupta, Government Advocate.
For Respondents	: None present.

Hon'ble Shri Justice T. P. Sharma
Hon'ble Shri Justice Inder Singh Uboweja

Order On Board by T.P.Sharma, J:**11/05/2015**

1. By this petition under Section 378(3) of the Cr.P.C. the applicant has prayed for grant of leave to appeal against the judgment of acquittal dated 30.7.2014 passed by the 4th Additional Judge to the Court of 1st Additional Sessions Judge, Bilaspur, in S.T.No.23/2014, whereby the trial Court has acquitted the respondents of the charges under Sections 120B and 302/34 of the IPC.
2. We have heard learned counsel for the applicant on admission, perused the copies of statements of the witnesses and copy of charge-sheet.
3. Learned Government Advocate for the applicant submits that initially it was the case of eyewitnesses, but alleged eyewitnesses including Keshav Prasad Sahu (PW-11), father of the deceased, has not supported the case of the prosecution as eyewitness, but he has specifically deposed in para 2 that the deceased has made dying declaration before him, which has not been considered by the trial Court.

4. As per para 9 of evidence of Keshav Prasad Sahu (PW-11), his statement under Section 161 of the Cr.P.C. has been recorded by the police as Ex.P/25, which did not find the factum of dying declaration.
5. In absence of any evidence against the respondents, the trial court has acquitted the respondents. We do not find any scope of interference for grant of leave to appeal against the judgment of acquittal, especially in the case of no evidence.
6. Consequently, the petition for leave to appeal is liable to be and is hereby dismissed.

JUDGE

JUDGE

B/-