

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. NO. 852 OF 2015

State of Chhattisgarh, through Station House Officer, Police Station
Raghunathnagar, District Balrampur-Ramanujganj (C.G.)

... Applicant

Versus

1. Abhay Sahu, S/o Jeewadhan Prasad Sahu, aged about 28 years,
2. Gopal Prasad Yadav, S/o Sawai Lal Yadav, aged about 39 years,

Both are R/o Raghunathnagar, Police Station Raghunathnagar,
District Balrampur-Ramanujganj (C.G.)

... Respondents

For Applicant : Mr. Ashok Swarnakar, Panel Lawyer.

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

16/12/2015

1. At the outset, learned Counsel for the State submits that by inadvertence Respondent No.2, Gopal Prasad Yadav S/o Sawai Lal Yadav, has been struck off in the cause-title and only co-accused, Abhay Sahu S/o Jeewadhan Prasad Sahu, has been shown as a Respondent. The latter has already been convicted and therefore it was an inadvertent error. Corrections may be permitted in the cause-title to maintain this application for leave to appeal only against Gopal Prasad Yadav.

2. Learned Counsel for the State is permitted to do so during the course of the day.

3. I.A. No. 1 of 2015 has been filed to condone delay of 8 days in filing the appeal.

4. The appeal assails acquittal of the Respondent from the charge under Sections 302, 314 IPC.

5. Learned Counsel for the State submits that acquittal of the Respondent who was Paramedical Doctor was unjustified. The brother of the deceased in the Merg and in the First Information Report has specifically asserted that the deceased was pregnant and that she was administered tablets for aborting by the Paramedical Doctor, as a result of which she died due to excessive bleeding.

6. We have considered the submissions and gone through the judgement also.

7. The present is not a case of any ocular evidence to the assault in conflict with medical evidence. The medical evidence given by the Doctor Govind Singh, PW-16 and Doctor R.B. Prajapati, PW-17, expressly concludes that death was homicidal in nature because of asphyxia due to strangulation and there were injuries on the body caused by hard-blunt substance. The post-mortem report does not confirm pregnancy. No suggestion with regard to the same was given to the Doctor during his evidence.

8. It is very difficult to understand the justification of this application for leave to appeal against acquittal of the Respondent in view of very specific medical evidence available.

9. The appeal is wholly frivolous. We find no reason to condone delay. The application for leave to appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge