

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Miscellaneous Petition No.311 of 2016

State of Chhattisgarh, through the Station House Officer, Police Station
Balrampur, District Balrampur – Ramanujganj, Chhattisgarh

---- Petitioner

versus

Kapil Panika, S/o Krishna Panika, age 22 years, R/o Village Bhelwadih,
Police Station Balrampur, District Balrampur – Ramanujganj, Chhattisgarh

---- Respondent

For Petitioner/State : Shri U.K.S. Chandel, Panel Lawyer

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per Navin Sinha, Chief Justice

28/4/2016

1. Heard on I.A. No.1 of 2016 for condonation of 49 days' delay in filing the application for leave to appeal. Considering the duration, delay is condoned.
2. The present application has been filed for leave to appeal against acquittal dated 30.9.2015 in Sessions Trial No.342 of 2012 by the Additional Sessions Judge, Ramanujganj of the charge under Sections 449 and 302 IPC.
3. Learned Counsel for the State submits that 1½ months prior to the occurrence the Respondent had threatened the deceased to kill her. The chappal of the Respondent was found at the place of occurrence. A Tangi was recovered on the confession of the Respondent. The acquittal was therefore not justified.
4. We have considered the submissions.
5. The case of the prosecution is based on circumstantial evidence. There is no eyewitness to the assault on the deceased. The fact that the

Appellant may have threatened the deceased 1½ months earlier is considered too remote to be relevant. There has been no forensic examination of the plastic chappal as belonging exclusively to the Respondent alone. Likewise, the Tangi is alleged to have been recovered also does not have any forensic report and its seizure has been disputed by the seizure witnesses.

6. We therefore find no reason to take a different view from that contained in paragraph 44 of the judgment.

7. The application for leave to appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE