

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 715 of 2016**

1. Smt. Kala Bai Sahu W/o Kashiram Sahu Aged About 50 Years R/o Village Mokhla, Police Station Lalbag, Tahsil & District Rajnandgaon Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Police Station - Kotwali, Rajnandgaon, District Rajnandgaon Chhattisgarh
2. Deepak Kumar Sahu S/o Toran Lal Sahu Aged About 29 Years R/o Village Mokhla, Police Station Lalbag, District Rajnandgaon Chhattisgarh
3. Tikeshwar @ Chhotu Sahu S/o Puran Lal Sahu Aged About 24 Years R/o Village Mokhla, Police Station Lalbag, District Rajnandgaon Chhattisgarh

---- Respondents

For Petitioner	:	Shri Abhishek Sharma, Advocate
For Respondent 1/State	:	Smt. M. Asha, Panel Lawyer
For Respondents 2 and 3	:	None

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

29/9/2016

1. Heard on Cr.M.P. followed by Acquittal Appeal under the Proviso of Section 372 of the Code of Criminal Procedure, 1973 (for short the Cr.P.C.) against the judgment of acquittal passed by the Sessions Judge, Rajnandgaon (CG) in S.T.No.12/2015 vide judgment dated 2nd November, 2015, whereby and whereunder, the learned Sessions Judge acquitted respondents 2 and 3 of the charges under Section 306 read with Section 34 IPC.

2. The present applicant is the mother of deceased Omprakash Sahu who claims herself as the victim covered under Section 2 (wa) of Cr.P.C. and submits that being a guardian of deceased Omprakash Sahu, she comes under the category of victim and with this she can prefer an appeal under the Proviso to

Section 372 Cr.P.C.

3. During hearing of the instant Cr.M.P. for grant of leave to appeal under Section 378 (3) Cr.P.C., learned counsel for the petitioner fairly submits that against the judgment of the trial Court, State preferred Cr.M.P.No.39/2016 an application for leave to appeal followed by Acquittal Appeal and the coordinate Bench of this Court vide order dated 19.7.2016 had dismissed the Cr.M.P. refusing to grant leave to appeal and also thereby dismissed the annexed Acquittal Appeal.

4. On due consideration of the above facts, if this High Court has already dismissed the leave to appeal against the same judgment in a Cr.M.P. filed by the State followed by Acquittal Appeal, the said denial of leave cannot again be considered in a subsequent Cr.M.P. for leave to appeal followed by Acquittal Appeal against the said judgment.

5. For the forgoing, this Court is of the considered view that the instant Cr.M.P. followed by Acquittal Appeal is not maintainable. Consequently, the instant Cr.M.P. is hereby dismissed along with Acquittal Appeal.

Sd/

(Chandra Bhushan Bajpai)
Judge