

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 255 of 2017

State Of Chhattisgarh Through District Magistrate Bemetara,
Chhattisgarh.

---- Applicant/appellant

Versus

1. Kewal Singh S/o Sangram Singh Lodhi Aged About 26 Years
2. Smt. Sita Lodhi W/o Late Rewa Lodhi Aged About 60 Years
3. Sangram Singh S/o Rewaram (Dead)

Both are R/o Village Jaitpuri, Police Station Nandghat, District
Bemetara, Chhattisgarh.

---- Respondents

For applicant/State	:	Mr. O.P. Sahu, Govt. Adv.
For Respondents	:	None.

ORDER**22/3/2017**

1. As regards Default No. 2, applicant has removed the default No. 2 by filing memo of submission by which cause title of the application for grant of leave to appeal under Section 378 sub-section (3) of the Cr.P.C., 1973 and the memo of appeal under Section 378 sub-section (1) of the Cr.P.C., has been submitted as required. With this default no. 2 is removed.
2. As regards default No. 1 learned counsel for the applicant submits that he will mark the annexure at Page No. 7 during the course of the day.
3. As regards default No. 3, it is further submitted that other relevant exhibited documents and copy of statements of witnesses are not required for hearing of the instant CRMP. With this they may be exempted to file those documents.
4. As prayed, let annexure be marked at page No. 7 during the

course of the day. Default No. 3 as pointed out by the Registry is over ruled.

5. Heard on instant CRMP followed by acquittal appeal which is preferred against the judgment dated 30-11-2016 passed in S.T. No. 17/2013 by the Additional Sessions Judge, Bemetara, Distt. Bemetara, CG whereby and whereunder the respondent No. 1 Kewal Singh and R-2 Smt. Sita Lodhi have been acquitted of the charges framed under Section 498-A read with Section 34, Section 306 read with Section 34 of the IPC by affording benefit of doubt.
6. Learned counsel for the applicants would submit that there was evidence for committing cruelty and evidence regarding abatement of suicide even then the court below acquitted both the accused by affording benefit of doubt which is not correct. There are good grounds for hearing the matter on its merit. Hence it is prayed that leave to appeal may be granted and the acquittal appeal may be heard on its merit.
7. Perused the judgment dated 30-11-2016. On perusal of said judgment, it appears that the deceased was not lawfully wedded to co-accused Sangram Singh died subsequently. On the other hand about 10 to 11 years ago she performed Chudi marriage (local ritual) with Sangram Singh and the respondent No. 1 Kewal Singh is the son of died co-accused Sangram Singh. R-2 Smt. Sita Lodhi is mother of Sangram Singh. With this provisions of Section 113-A of the Evidence Act are not attracted in the matter. There was no complaint of any cruelty at the time of incident. The witnesses P.W. 3 Motilal and P.W. 4 Ramnath Verma have deposed that the deceased was set ablaze by the respondents

and the court below held that the death was not homicidal on the other hand death was suicidal. Other witnesses P.W. 5 Nirmalabai, P.W. 6 Dwarika Lodhi, P.W. 8 Kailash Kumar Lodhi, P.W. 10 Dhanpat Lodhi, P.W. 11 Ramesh Lodhi, P.W. 15 Ramanand, P.W. 23 Kamta Prasad Rajput have not said anything specific against the present respondents. With this in the considered view of this Court, the trial Court has rightly held that there are no material, trustworthy evidence regarding cruelty by the present respondents and also the prosecution has failed to prove the factum of abatement as required under Section 107 of the IPC to prove the ingredients of Section 306 of the IPC for committal of suicide. The Court below rightly awarded benefit of doubt to the present respondents and acquitted them as the charges were not proved beyond all probable and reasonable doubt. As per settled law, the prosecution was required to prove its case against the present respondents beyond all probable doubt.

8. On entire consideration and the discussion as made in the impugned judgment, I do not see this as a fit case for grant of leave to appeal.
9. Consequently, instant CRMP is dismissed being sans substance along with proposed criminal appeal.
10. CRMP dismissed.

Sd/-
(Chandra Bhushan Bajpai)
Judge