

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 363 of 2017

1. State of Chhattisgarh Through the Incharge, Police Station Katghora, District Korba, Chhattisgarh.

---- Applicant

Versus

1. Sunita @ Bhoot W/o Late Vikram Singh Nagwanshi, age 21 years, R/o Lakhanpur, Police Station Katghora, District Korba, Chhattisgarh.

---- Respondent

For Applicant/State – Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

21-03-2017

1. The instant Cr.M.P. under Section 378(3) of the Cr.P.C. followed by acquittal appeal has been preferred after 26 days of its limitation.
2. I.A.No.1/2017 for condonation of delay in filing the Cr.M.P. followed by acquittal appeal is pending.
3. Registry has pointed out the default for non-filing copy of relevant exhibited documents and evidence.
4. On due consideration, the default pointed out by the Registry is overruled after perusal of the copy of the judgment dated 21-10-2016.
5. Heard on I.A.No.1/2017 for condonation of delay occurred in filing the Cr.M.P. and the acquittal appeal as there is delay of 26 days.
6. On due consideration, for the reasons mentioned in I.A.No.1/2017 and the argument advanced, this Court is of the considered view that delay of 26 days is satisfactorily explained. Consequently, I.A.No.1/2017 is hereby allowed and delay of 26 days is hereby condoned.
7. Also heard on leave to appeal.
8. Learned counsel for the applicant supported the grounds taken in the memo of acquittal appeal and would submit that the Court below erred in law

while awarding benefit of doubt to the respondent/accused, hence, leave to appeal may be granted and the acquittal appeal may be heard on its merit.

9. Perused the judgment dated 21-10-2016. Admittedly, the respondent/accused was wife of deceased Vikram Singh. As per allegation, the respondent assaulted by axe and also throttling the neck, murdered her husband, as per prosecution.

10. On due consideration, as there is no any injury caused from any sharp, hard and sharp weapon, there is no any eye-witness, medical evidence for the cause of death is not supporting the prosecution's story, on due consideration, possibility of suicide may not be ruled out and as per settled law, the prosecution has to establish the guilt beyond all probable and reasonable doubt; though the husband and the wife alone were residing in the house, but looking to the entire facts and circumferences, the death on account of suicide cannot be ruled out. Consequently, I do not see any reason to take a different view prima facie for hearing the matter after grant of leave to the applicant. Consequently, the Cr.M.P. for grant of leave is dismissed as not maintainable. The acquittal appeal filed along with the application is also hereby dismissed as the Court declined to grant leave to appeal.

11. The Cr.M.P. dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE