

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 186 of 2006

Manbai wife of Shri Rameshwar Sharma, aged about 52 years, Occupation – Labour, Resident of Sikola Basti, Police Station Mohan Nagar, Durg, District CG.

--- Applicant

Versus

State of Chhattisgarh through Police Station GRP Durg, District Durg, CG

--- Respondent

For Applicant	-	None.
For Respondent	-	Shri Gary Mukhopadhyaya, GA

Order on Board by Hon'ble Smt. Vimla Singh Kapoor, J.

04.12.2018:

By this revision petition the applicant has assailed the judgment dated 02.03.2006 passed by Additional Sessions Judge (FTC), Durg, CG in Criminal Appeal No. 20/2004 affirming the judgment dated 21.12.2003 passed by JMFC Durg in Criminal Case No. 501/2002 convicting the accused/applicant under Section 317 IPC and sentencing her to undergo RI for one year and six months and pay fine of Rs. 50/- plus default stipulation.

2. Facts of the case in short are that on 27.12.1998 an abandoned new born male baby was found by an employee of Railways in the washbasin of coach No. 6064 of Sarnath Express stationed at Durg yard. On information given to GRPF Durg by the cleaner of the Railways namely Rajmani Tiwari, the report Ex. P-2 was registered and the matter was investigated and the during

investigation a document regarding hospitalization of the accused/applicant was seized under Ex. P-4 and after her medical examination the *challan* was filed.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 317 IPC and imposed the sentence as above. The findings recorded by the trial Court have subsequently been confirmed by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.

4. There is a certificate dated 29.03.2012 issued by the Registrar, Birth and Death, Government of Uttar Pradesh which shows that the accused/applicant herein died on 08.03.2012 i.e. during the pendency of this revision. However, this Court has to decide the case on its own merits, in view of the order passed by the Constitution Bench of Supreme Court in the matter of **Pranab Kumar Mitra v. State of WB** reported in **AIR 1959 SC 144**.

5. Here in this revision the applicant/accused remained unrepresented. State counsel however supports the judgment under assail and submits that the Courts below have recorded the well reasoned finding while writing the judgment impugned and therefore, no interference there-with is needed by this Court.

6. Heard the State counsel and perused the evidence on record.

7. Having heard counsel for the State and perused the material available on record including the evidence of Rajmani Tiwari (PW-2)

- the cleaner who first saw the new born male baby in the washbasin of the train mentioned above as also the doctor (PW-3) who medically examined the accused and found her breasts filled with milk and her pregnancy was of 20 weeks, it gets crystallized that it is the accused/applicant who gave birth to the new born baby and left it in an abandoned condition. The statements of these witnesses are quite consistent and therefore there is no reason to disbelieve or discard the same. In this view of the matter, both the Courts below appear to have been fully justified in holding the accused/applicant guilty under Section 317 IPC and therefore, no infirmity or illegality is visible in the judgment under assail.

8. Revision therefore being without any substance is liable to be dismissed and it is dismissed as such.

Sd/-

(Vimla Singh Kapoor)
Judge