

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1432 of 2018**

State of Chhattisgarh, Through The Police Station, Baramkela, District- Raigarh (C.G.)

---- **Petitioner**

Versus

Prafull Mahapatra, S/o Shri Shashikant Mahapatra, Aged About 52 Years, R/o Village- Hirri, Police Station Baramkela, District- Raigarh (C.G.)

---- **Respondent**

 For State/ Petitioner : Mr. Vinod Kumar Tekam, PL.
 For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

27/10/2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition which is supported with an affidavit of Jagat Ram Chauhan.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 69 days in filing the petition is condoned.
3. Heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 29.01.2018 passed by Additional Sessions Judge, Sarangarh, District- Raigarh (C.G.) in Session Trial No. 13/2017, wherein the said court acquitted the respondent for commission of offence under Section 306 of IPC.
5. In the present case, name of the deceased is Smt. Padmini @ Sashmita Mahapatra. The respondent who was charged under

Section 306 of IPC is father-in-law of the deceased. Though, the prosecution have examined 22 witnesses in all, but only 2 witnesses namely Bhishmadev Thanapati (PW-7) & Jitendra Thanapati (PW-8) have thrown light regarding the incident. All the other witnesses have not supported version of prosecution and some of them have assisted during investigation after registration of FIR.

6. Bhishmadev Thanapati (PW-7) is brother of the deceased. He stated entirely different story what is proposed by the prosecution. This witness deposed that he is in doubt that the deceased has been murdered by pressing her neck. This witness has deposed that he is stating on count of doubt. This witness is resident of village- Amaldih, which is not place of incident. The incident took place at village- Hirri on 16.05.2017, therefore, this witness had no occasion to see as to what was going on in house of the deceased therefore, his version is not real version of the incident.
7. Jitendra Thanapati (PW-8) is father of the deceased. He is also resident of Amaldih. He also deposed that the doubt in his mind. As the incident took place at village- Hirri, this witness had no occasion to see as to what was really happened on the date of incident or prior to the date of incident, therefore, the trial court opined that the charges under Section 306 of IPC is not established against the respondent.
8. After going through the entire record, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this

petition. Accordingly, application for grant of leave to appeal is rejected.

9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun