

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 653 of 2017**

- State Of Chhattisgarh Through The Udaipur, District Surguja Chhattisgarh

---- Petitioner

Versus

- Samay Lal S/o Mohit Ram Gond, Aged 40 Years Occupation Agriculture, R/o Village Tolga Devallapara, Police Station Udaipur, District Surguja Chhattisgarh

---- Respondent

For Petitioner/StateMr. Pawan Kesharwani, Panel Lawyer

DB: Hon'ble Mr. Justice Prashant Kumar Mishra &**Hon'ble Mr. Justice Gautam Chourdiya****Order On Board by Prashant Kumar Mishra, J.****4/9/2019**

1. Heard.
2. The trial Court has acquitted the accused of the charge under Section 302 of IPC.
3. The accused had allegedly committed murder of his wife Pyaro Bai at about 1:00AM on 22.11.2015.
4. Case of the prosecution mainly rests on the statement of PW-3 Shobhan, son of the appellant, but he has not supported the

case of the prosecution. Other witnesses have derived information from Shobhan, however, once Shobhan would not support the prosecution, the statements of other witnesses become hearsay. PW-8 Smt. Anita would state that at the time of occurrence, the accused was not in his house, therefore, the principle under Section 106 of the Evidence Act would not apply against the accused.

5. Although the witnesses to the memorandum and seizure have partially supported the prosecution case, the conviction for committing murder cannot be based solely on the evidence of memorandum statement and seizure.
6. No case for grant of leave to appeal against acquittal is made out.
7. The CRMP is dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge

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