

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2536 of 2018

- State Of Chhattisgarh Through S.H.O. Police Bankimongra District Korba Chhattisgarh.

---- Petitioner

Versus

1. Manrakhan S/o Shri Santram Rohidas Aged About 55 Years R/o Dhaphdhap ,police Station Bankimongra District Korba Chhattisgarh.
2. Sunil Kumar S/o Shri Manrakhan Rohidas Aged About 18 Years R/o Dhaphdhap ,police Station Bankimongra,district Korba Chhattisgarh.
3. Bisahin Bai S/o Shri Manrakhan Rohidas Aged About 45 Years R/o Dhaphdhap ,police Station Bankimongra,district Korba Chhattisgarh.
4. Shani S/o Shri Manrakhan Rohidas Aged About 20 Years R/o Dhaphdhap ,police Station Bankimongra,district Korba Chhattisgarh.
5. Smt. Rajni Bai W/o Shri Shani Rohidas Aged About 20 Years R/o Dhaphdhap ,police Station Bankimongra District Korba Chhattisgarh.

---- Respondents

For Petitioner	: Shri Subash Yadav, Advocate
For Respondents	: None present.

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Smt. Justice Rajani Dubey

Order on Board By Prashant Kumar Mishra, J.

23/01/2019

On due consideration, delay of 102 days in filing the application seeking leave to appeal deserves to be and is hereby condoned.

I.A. No.01/2018 stands disposed of.

Heard State counsel on admission.

The respondents were charged for committing the offence under Sections 304-B/34 and 498-A IPC. They have been acquitted for the reason, inter *alia*, that the dying declaration Ex.P-1 recorded by Sahettar Kurre (PW-16) Head Constable No. 676 records that the deceased received burn injuries accidentally.

Perusal of the statement of PW-16 would reveal that after the incident which had taken place on 7.5.17, the concerned police requested the hospital authorities for recording dying declaration but they were informed that the deceased is not fit for recording dying declaration. Subsequently, the dying declaration was recorded on 13.5.17 but the said dying declaration does not carry certificate of the treating physician that she is fit for recording such statement nor it carries signature or thumb impression of the deceased and there is no remark either as to why obtaining of such signature or thumb impression is not possible.

Considering the material on record, we are satisfied that present is a fit case for grant of leave to appeal. Accordingly, Cr.M.P. is allowed.

Let regular acquittal appeal be registered and notice thereof be issued to respondents on payment of PF as per rules.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Rajani Dubey)
Judge

