

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2572 of 2018

State Of Chhattisgarh Through - Its Station House Officer, Police Station Kartala,
District - Korba Chhattisgarh ---- **Petitioner**

Versus

Ganesh Ram Rathiya S/o Gada Ram Aged About 47 Years R/o Village Madwani,
Police Station Kartala, District - Korba Chhattisgarh ---- **Respondent**

For Petitioner : Mr. Anand Verma, Dy. G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

18/01/2019

Heard on application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Also heard on application for grant of leave to appeal.

Learned State counsel would submit that the acquittal of the respondent found on the allegation of commission of offence under Section 304 IPC is illegal because during the pendency of a trial for alleged commission of offence under Section 326 IPC, the victim died and even though, the pending trial was brought to its logical conclusion by way of judgment of conviction under Section 326 of IPC vide judgment dated 26.06.2014, in view of death, afresh trial was permissible under the law.

We find that on the allegation of assault given by the respondent, the respondent was subjected to trial for alleged commission of offence under Section 326 of IPC. It appears that during the pendency of the trial, the victim died. However, trial continued and the respondent was convicted under Section 326 of IPC vide judgment dated 26.06.2014. Afresh trial in respect of the same criminal overt act was not permissible under the law. Therefore, for this weighty reason, we do not find any ground to interfere with the impugned judgment passed by the Lower Court. We also find that the death has otherwise taken place three months after the date of incident. The appeal is, therefore, dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge