

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.55 of 2019**

- State Of Chhattisgarh Through Station House Officer, Police Station Dongargarh District Rajnandgaon Chhattisgarh.

---- **Petitioner****Versus**

- Deepak Shrivastav S/o Punalal Shrivastava Aged About 30 Years R/o Kalkapara, Ward No. 10 Dongargarh Police Station Dongargarh District Rajnandgaon Chhattisgarh.

---- **Respondent**-----
For the Petitioner/State : Shri Ravish Verma, Govt. AdvocateFor the respondent : None
-----**Hon'ble Shri Justice Ram Prasanna Sharma****Judgment On Board****19.02.2019.**

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.
2. On due consideration, the application is allowed and the delay of 12 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition is preferred against the judgment of acquittal dated 30.8.2018 passed by Additional Judge to the Court of First Additional Sessions, Dongargarh, Distt. Rajnandgaon (CG) passed in Session Trial No.08/2017 wherein the said Court acquitted the respondent for the charges under Section 304 Part-II of the Indian Penal Code.
5. The respondent was charge sheeted for said offence for pushing one Smt. Girija Bai by both his hands resulting which she

fell down in the ground and when was admitted in the hospital she was declared dead. Dr. Suchita Shrivastava (PW-11) who conducted the autopsy of deceased Girija Bai deposed that cause of death is respiratory failure within 24 hours of the examination.

6. To substantiate the charges, Kunthi Bai (PW-5) deposed that when she reached to the spot, Girija Bai was lying on the ground and thereafter she was shifted to the hospital. This witness is unable to say how Girija Bai was fell down. Sapna Vishwakarma (PW-6) deposed that Girija Bai sustained injury due to fall, but she deposed that she did not see Girija Bai fall on the ground. Jyoti Vishwakarma (PW-7) is also enable to say as to how Girija Bai fell down. Pooja Upadhyaya (PW-8) did not depose regarding the incident. Shyam Bai (PW-9) deposed that she has been informed that some woman fell down on the ground, but she is not aware what had really happened. All the witnesses examined by the prosecution are unable to establish any role played by the respondent in falling of said Girija Bai.

7. Looking to the entire evidence on record participation of the respondent in crime in question is not established. That is why the trial Court recorded on the finding of the acquittal. After going through the record, this Court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the matter.

8. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE