

(2020) 03 CHH CK 0122

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition (CRMP) No. 576 Of 2020

State Of Chhattisgarh

APPELLANT

Vs

Devi Das Sahu And Ors

RESPONDENT

Date of Decision : 06-03-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302

Citation : (2020) 03 CHH CK 0122

Hon'ble Judges : Prashant Kumar Mishra, J;Gautam Chourdiya, J

Bench : Division Bench

Advocate : Fouzia Mirza

Final Decision : Dismissed

Judgement

@JUDGMENT-JUDGMENT

Prashant Kumar Mishra, J

1. On due consideration delay of 104 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01/2020, application for condonation of delay is allowed.
2. The trial Court has acquitted the accused - Devi Das Sahu CRMP No. 576 of 2020 of the charge under Section 302 of the IPC and accused - Umend Kumar of the charge under Section 302 read with Section 34 of the IPC vide its judgment dated 08.08.2019.
3. Sister of accused - Devi Das Sahu who was married with deceased - Faleshwar Das Sahu, died after sustaining burn injuries in the year 2015. The deceased was facing trial for causing death of sister of Devi Das Sahu and was arrested during pendency of trial. As soon as he was released on bail Devi Das Sahu conducted recce of the deceased and eventually murdered him during the intervening night of 26.08.2017 and 27.08.2017. Accused No.2 namely; Umend Kumar provided necessary information about the movement of the deceased, therefore, he has also been arrayed with the aid of Section 34 of IPC.

4. Case of the prosecution was based on circumstantial evidence, however, there is no evidence of last seen together or extra judicial confession. The only circumstance appearing against the accused Devi Das Sahu was that he had a motive to commit murder of the deceased and that consequent to his memorandum statement Ex-P-2, broken bottle used for causing injuries over the person of the deceased, jeans pant and shirt were recovered vide Ex-P-5.

5. PW-2 Pitam @ Pitambar Das Sahu and PW-8 Yogesh Sahu CRMP No. 576 of 2020 are witnesses to the memorandum statement and consequent seizure, however, their statements are not fully supporting the prosecution. The broken bottle and jeans pant with shirt were sent for FSL examination but the report does not incriminate the accused persons for the reason that the blood stains found on the articles were disintegrated, therefore, blood group matching of blood stain was not possible.

6. Considering lack of cogent and reliable evidence against the accused persons, the present is not a fit case for grant of leave to appeal against acquittal.

7. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.