
(2019) 07 CHH CK 0154

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition (CRMP) No. 1703 Of 2019

State Of Chhattisgarh

APPELLANT

Vs

Gopiram Nirmalkar

RESPONDENT

Date of Decision : 24-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 302

Citation : (2019) 07 CHH CK 0154

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

Bench : Division Bench

Advocate : K.K. Singh

Final Decision : Dismissed

Judgement

Prashant Kumar Mishra, J

1. Heard on I.A. No.1, application for condonation of delay in filing the application, seeking leave to appeal.

2. On due consideration, application is allowed and delay of 19 days in filing application, seeking leave to appeal, is condoned. Accordingly, I.A. No.1 is allowed.

3. The trial Court has acquitted the accused of the Charges under Section 302 of IPC.

4. Deceased Surendra @ Munna was son of the accused. He was done to death at about 9:00 pm on 28.09.2017. On the said date religious rituals were going on in the house of the deceased, however, deceased disturbed the function by pouring liquor over the Diya (Earth lamp) due to which the accused got provoked and assaulted the deceased over his head resulting in his death. PW-1, Sheela Nirmalkar, mother of the deceased has turned hostile. She speaks about the deceased having reached house in drunken condition but thereafter she says that entire family had moved out of the house to watch Durga festival. Similar in the

statement of accused's another son Ajendra Kumar Nirmalkar (PW-4). Other witnesses are formal as they are witnessed to dead body inquest, seizure, etc. Even these witnesses have turned hostile.

5. There is absolute lack of evidence to bring home the charges. No case for grant leave to appeal is made out, accordingly, Cr.M.P. is dismissed.