

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 266 of 2009**

- State Of Chhattigarh, Through : District Magistrate, Durg (CG)

---- Petitioner

**Versus**

1. Krishnakant Tiwari S/o Deendayal Tiwari, R/o. Village Darouli, Distt.-Siwan, Bihar
2. Smt. Indu Tiwari W/o Krishnakant Tiwari R/o. Village Darouli, Distt.-Siwan, Bihar
3. Kunjbihari Tiwari R/o Village Darouli, Distt.-Siwan, Bihar

---- Respondents

&amp;

**CRMP No. 817 of 2011**

- State Of Chhattisgarh Through : District Magistrate, Durg (CG)

---- Petitioner

**Versus**

- Raghvendra Tiwari S/o. Krishnakant Tiwari, R/o. Housing Board, Bhilai, M.I.G. 2/2651, District Durg C.G.

---- Respondent

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For petitioner / State : Shri Subhash Yadav, Dy.G.A.

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**D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava****Hon'ble Smt. Justice Rajani Dubey****Order On Board****30/04/2019**

Heard on prayer for grant of leave to appeal filed by the State against acquittal of the respondents / accused in the aforesaid two petitions.

2. Learned State counsel would argue that the prosecution came out with the

evidence of deceased having been subjected to cruelty and that she died in suspicious circumstances while travelling along with the respondents / accused i.e. husband, mother-in-law, father-in-law and brother-in-law. It is also argued that the hurried manner in which the dead body was cremated without due indication and information to the parents of the deceased itself is a strong circumstance to bring home the guilt of the accused.

3. We have gone through the impugned judgment and the evidence which has been placed on record.

4. It is found that the learned Trial Court has noticed that though the death had taken place on 20/05/2002, for the first time, the complaint was made to the Superintendent of Police by the father of the deceased only on 19/07/2002. Moreover, the prosecution case itself shows that the death had taken place while travelling. Learned Trial Court had no material to come to the conclusion with regard to the cause of death because no post mortem was done. Learned Trial Court has also taken into consideration the evidence of Chandrahas Tripathi (PW3), Ghananand Tripathi (PW4) and Vikky Sharma (PW5) out of which, Ghananand Tripathi (PW4) and Vikky Sharma (PW5) have deposed regarding they having seen the dead body and also cremation. These witnesses have not supported the prosecution case that the deceased had died due to any violent act.

5. Taking into consideration that except suspicion, the prosecution has not come out with any evidence to translate suspicion into truth and the learned Trial Court acquitted the respondents by giving them benefit of doubt, particularly taking into consideration that it is not a case that the deceased died in the matrimonial house. Even according to the prosecution, the death had taken place while she was travelling in a train along with her husband, father-in-law, mother-in-law and brother-in-law. Therefore, it is not a fit case for grant of leave to appeal. The application for grant of leave to appeal in both the petitions are accordingly rejected. Both the petitions are accordingly dismissed.

Records of the Trial Court be sent back.

Sd/-

**(Manindra Mohan Shrivastava)**  
**Judge**

Sd/-

**(Rajani Dubey)**  
**Judge**

