

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 80 of 2015**

- Ishwar Prasad Sahu S/o Lalwa Ram Sahu aged about 50 years R/o Village Lavsara, Police Station Baradwar, Civil And Revenue District Janjgir-Champa, Chhattisgarh, Present Address Irrigation Colony, Akaltara, Civil And Revenue District Janjgir-Champa, Chhattisgarh

---- Appellant**Versus**

1. State Of Chhattisgarh through: Police Station Akaltara, Civil And Revenue District Janjgir-Champa, Chhattisgarh
2. Vibhay Sahu S/o Malikram Sahu aged about 25 Years R/o Village Riwadih, P.S. Jaijaipur, Civil And Revenue District Janjgir-Champa, Chhattisgarh

---- Respondents

For appellant	: Mr. Deepak Singh Thakur, Advocate.
For Respondent No. 1/State	: Ms. Pushpa Dwivedi, Panel Lawyer.
For respondent No. 2	: None.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Judgement****22/06/2015**

1. Heard on admission.
2. Learned counsel for the appellant submits that he had preferred the appeal under the provisions of Section 372 of the Code of Criminal Procedure Code, 1973 (in brevity 'Cr.P.C.') as he is the father/guardian of deceased Hemlata Sahu and thereby suffered a loss or injury on account of suicide of deceased Hemlata hence he is victim and as per proviso to Section 372, he has a right to prefer appeal against the judgment passed by the Additional Sessions Judge (FTC), Janjgir, Distt. Janjgir Champa whereby and whereunder learned trial Court in Special Sessions Case No. 220/2014 acquitted the respondent/accused Vaibhay Sahu for the charges framed against him under Section 306 of the Indian Penal Code (in brevity 'IPC'). It is submitted that the deceased herself lodged a report against acquitted accused Vaibhay Sahu on 6-4-2014 before Police Station Civil Lines regarding threat and subsequently he uploaded the photo taken in privacy of deceased/complainant on 6-4-2014 thereby outraged her modesty and she

felt insulted. After lodging of the report, police registered the FIR under Section 354(g) and 501 of the IPC and Section 67-A of the Information Technologies Act, 2000. After registration of the FIR, Hemlata Sahu committed suicide on 24-4-2014 in the house of the appellant. It is also submitted that the trial Court examined only 4 witnesses out of 16 witnesses mentioned in the list of witnesses. As the suicide was committed after the above-mentioned act, acquittal by the trial Court is bad in law. There is abetment. Statements of Jasoda and Raghvendra Sharma are not produced before the trial Court by the prosecution. Prosecution also did not examine any seizure witness. Hence, it is prayed that the matter be heard and the judgment passed by the trial Court dated 18-3-2015 be set aside and the respondent No. 2/ accused be convicted as per law.

3. On the other hand, learned counsel for the State opposed the arguments advanced by the appellant.
4. For the purpose of appreciation of evidence and fact when the case was taken up for motion hearing, material available in the case is perused. From a close scrutiny of the material, it is emerged that after 18 days of lodging of FIR, the deceased committed suicide in her parents' house. In the FIR no description regarding photo was mentioned. The offence committed by the accused was duly reported then and there and the police registered the crime followed by investigation. Looking to the ingredients of Section 306 of the IPC for the present case, unless any of the ingredients mentioned in Section 107 of the IPC are proved against respondent No. 2, no offence under Section 306 of IPC is made out. The trial Court while appreciating the evidence held that no ingredient of Section 107 of the IPC is proved. Consequently, the trial Court acquitted the accused. The trial Court considering the fact that after 18 days of offence committed by the accused by uploading alleged photo taken in privacy in the internet through the group formed by the accused in an instrument of social media, the suicide was

committed, held that no offence is made out. The trial Court also appreciated the statement deposed by the appellant in para 11 at the time of his examination that between the period when his daughter reached home and she committed suicide, there was no talk between him and his daughter. No order sheet or material is furnished so that it may be appreciated whether the trial court had ever committed any error by not examining the other material witnesses. No application or proceeding to this effect is furnished.

5. Looking to the entire facts and circumstances of the case and the evidence adduced in this matter, I am of the view that as ingredient of Section 107 of the IPC is not made out, the offence under Section 306 of the IPC is also not proved against the respondent/accused. There is no material to take up this acquittal appeal for final hearing. The appeal is liable to be dismissed in the motion stage itself.
6. Consequently, acquittal appeal preferred on behalf of the appellant is dismissed as not maintainable in motion stage.

Sd/-

Chandra Bhushan Bajpai

JUDGE