

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P. No. 805 of 2015**

The State of Chhattisgarh, through District Magistrate, Jashpur.

---- Appellant**Versus**

Nandu @ Nandkumar Bhagat, S/o Balkisun Ram, aged about 25 years, by occupation Student, R/o village Komdo, P.S. Jashpur, District Jashpur, Chhattisgarh.

---- Respondent

For Appellant	:	Smt. Sobha Kashyap, Dy. G.A.
For Respondent	:	Not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Judgment on Board****10/09/2015**

(1) Heard on instant Cr.M.P. followed by the acquittal appeal preferred by the Applicant/ Appellant under Section 378(1) of the Code of Criminal Procedure, 1973 (for short 'the Code') against the judgment and order dated 29.4.2015, passed in Sessions Trial No. 95 of 2013 by the Learned Session Judge, Jashpur, Chhattisgarh whereby and whereunder the Respondent has been acquitted of the charge under Section 306 of the Indian Penal Code, 1860 (for short 'the Code').

(2) The instant Cr.M.P. for leave to appeal alongwith acquittal appeal has been filed after 10 days of its limitation. I.A. No. 1 of 2015, an application under Section 5 of the Limitation Act, 1963 (for short 'the Act') has been filed for condonation of delay in filing the same.

(3) On due consideration, I.A. No. 1 of 2015 is allowed and delay of 10 days in filing the Cr.M.P. followed by the acquittal appeal is hereby condoned.

(4) Heard on the application for leave to appeal as prayed by the Applicant.

(5) By filing the instant Cr.M.P. followed by the acquittal appeal, it is prayed that the trial Court has erred in appreciating the evidence adduced by the prosecution during trial. The judgment passed by the trial Court is bad in law which requires interference as the prosecution has succeeded to prove its case against the Respondents. Therefore, the judgment passed by the trial Court may kindly be set aside and permission be granted for leave to appeal and also the appeal be heard on its merits.

(6) For the purpose of leave to appeal, I have perused the impugned judgment, the charge-sheet, and the evidence adduced before the trial Court.

(7) Learned counsel for the Applicant submits that before the trial Court the prosecution has proved its case beyond reasonable doubt against the Respondent. The impugned judgment of the trial Court requires interference as the same is perverse and without proper appreciation to the evidence. Hence, leave may kindly be granted and the appeal be heard on its merits.

(8) From close scrutiny of the entire material available on record and as per statement of PW-2 Dr. Ashok Lakda and the autopsy report Ex. P/2 it is clear that the death of Arti Kala is of suicidal in nature. She died on account of asphyxia due to hanging in the house of Respondent's elder brother (cousin). Undisputedly, the death has been proved as suicide.

(9) The only question remains for consideration of this Court is whether the deceased committed suicide after any abetment by the Respondent.

(10) As per brief facts of the case, the deceased and the Respondents are in love with each other. Prior to the incident, about two months ago the deceased went to the village Champa and she lived there for a month. Thereafter, the father of the deceased has taken her to his house. Thereafter, on 7.9.2013 in the evening the Respondent and the deceased both had gone to the house of Sugnati Bai PW-5, the wife of the elder cousin brother of the Respondent. Both of them slept together in a room. In the morning, the family members noticed that the deceased was hanging. The matter was reported to the police. After registration of the merger intimation, the police started investigation in the matter.

(11) During trial, on behalf of the Respondent the entire incident has been admitted but he has taken a defence that as the family members of the deceased were not agree for the marriage of the deceased with the Respondent as he was unemployed and also they were looking for an employed person for the deceased, the deceased committed suicide only on account of the aforesaid things and he had not abetted her for committing suicide.

(12) Learned counsel for the Applicant submitted that Pradhan Ram (PW-3), father of the deceased has stated that the Respondent made a phone call and informed him to take his daughter. When he reached to village Komdo he saw her daughter dead. He also notice an injury over

the neck and he does not know how her daughter reached to village Komdo and how she died.

(13) Perusal of the statement of PW-3 goes to show that the leading questions were asked with the permission of the Court. Nothing regarding abetment has been deposed by this witness. Even after perusal of the statements of other witnesses, it is clear that no direct evidence, much less satisfactory evidence has been adduced by the prosecution regarding the abetment against the Respondent. The trial Court after considering the entire facts and circumstances, acquitted the accused for the offence.

(14) For the purposes of leave to appeal, this Court is of the considered view that the Applicant/ State has failed to demonstrate any evidence on which *prima facie* abetment by the accused is proved, Unless any of the ingredients under section 107 of the IPC are proved or demonstrated, no one can be held guilty for the abetment of a thing i.e. suicide. Since there is no *prima facie* material regarding abetment of suicide by the Respondent, and also looking to the fact that the family members of the deceased were not agree for the marriage of the Respondent with the deceased even that too after completion of some rituals prior to one year, the Respondent cannot be held liable for abetment of suicide. It is not the case that the Respondent forcibly took her to his elder cousin brother's residence, rather on the other hand as per the statements of the witnesses, especially Sugnati Bai (PW-5) the deceased had gone with the Respondent voluntarily.

(15) On due consideration, no ground is made out for grant of leave to appeal. Consequently, the instant Cr.M.P. for leave to appeal is hereby dismissed. Consequently, the acquittal appeal filed alongwith Cr.M.P. is also dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE

Nimmi