

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 16 of 2016**

State Of Chhattisgarh Through The Station House Officer, Police Station
Dhamdha, District Durg Chhattisgarh.

---- Applicant

Versus

Rajkumar S/o Hariram Markandey aged about 57 Years R/o Village
Motimpur, Police Station Dhamdha, District Durg Chhattisgarh.

---- Respondent

For applicant	:	Ms. M. Asha, Panel Lawyer.
For Respondent	:	Not noticed.

Order On Board**22/03/2016**

1. Heard on I.A. No. 1/15 for condonation of delay in filing instant criminal revision as the same is preferred after 65 days of its limitation.
2. On due consideration, I.A. No. 1/15 is allowed. Delay in filing instant criminal revision is condoned.
3. Also heard on admission.
4. Facts of the case in brief necessary for disposal of the revision are that the Additional Sessions Judge, Durg while hearing the matter in S.T. No. 48/2015 while deciding the application under Section 227 of the Code of Criminal Procedure, 1973 (in brevity 'Cr.P.C.') to discharge the respondents for offence under Section 306 of the Indian Penal Code, 1860 (in brevity 'IPC') allowed the said application, acquitted the respondent for the allegation under Section 306 of the IPC. Against the said judgment, the applicant/State has preferred instant criminal revision on the ground that court below has passed the impugned order in cryptic and laconic manner without appreciating the material available on record. Same is absolutely bad in law as the same has been passed without appreciating the material available. The witnesses have stated in their statements that on account of *marpeet*, suicide was committed by the deceased. The court below erred in not framing charge against the respondent. There is prima facie material for the ingredients of Section 306 of the IPC. Hence the instant criminal revision be allowed and the impugned order dated 30-6-2015 be quashed.
5. Learned counsel for the applicant while making submission on admission

duly supported the grounds taken in revision and submitted that the order passed by the Court below is erroneous, without foundation of law and facts and the same may be quashed.

6. For appreciating the arguments advanced by counsel for the applicant, I have perused the impugned judgment.
7. Perusal of the impugned judgment goes to show that the respondent and deceased Hemlata were married about 10 to 12 years ago from the date of the incident. Out of their wedlock, one female child and two male child born. All the thirteen witnesses have stated that as the respondent after consuming liquor made suspicion about character of the deceased and committed *marpeet*, she committed suicide by pouring kerosene and igniting herself. As per facts, the date of incident is 29-3-2013. FIR was lodged after two years i.e. 10-4-2015. Statement of all thirteen witnesses were recorded under Section 161 of the Cr.P.C. after a lapse of two years. As per evidence, statements of father and brother of the deceased, the deceased stated in the month of February that her husband i.e. the respondent raises suspicion about her character and beats her after consuming liquor. The trial Court while appreciating entire material on the application under Section 227 of the Cr.P.C. held that there is no positive act of the respondent to show abetment for committing suicide. No witness has seen the assault by the respondent. Only once that too in the month of February, 2013 the deceased informed her father and brother about the suspicion of her character by the respondent. There is no example which may be held as abetment for suicide. There is no evidence regarding assault and suspicion on the character prior to date of the incident. There is no evidence regarding initial help or any help for abetment of suicide. There is no evidence regarding criminal mens rea, also no evidence for abetment as required under Section 107 of thew IPC. There is no evidence that the respondent constituted the circumstances and there was no alternate before the deceased but to commit suicide. The Court below also held that there is no evidence that when, where and by which manner the respondent made suspicion regarding her character. The court below with the above appreciation held that if all the evidence collected is accepted as it is, even then there is no substantive doubt regarding abetment for suicide. Hence the court below held that as there is no sufficient basis to proceed against the respondent under Section 306 of IPCP thereby allowed the application under Section 227 of the Cr.P.C. and acquitted the respondent for the charge of offence under Section 306 of the IPC.

8. On due consideration, from perusal of the impugned judgment and also in the absence of any other material adduced on behalf of the applicant, this court is of the considered opinion that the court below has not committed any illegality, impropriety, incorrectness calling for any interference in the impugned judgment.
9. Hence the revision is dismissed at motion stage as not maintainable.

Sd/-
(Chandra Bhushan Bajpai)
Judge