

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL MISC. PETITION NO. 116 OF 2016**

State of Chhattisgarh through Station House Officer, Police Station,
Bhilai Bhatti, District Durg (CG).

----APPELLANT**Versus**

1. Pramod Singh S/o Shri Lalbihari Singh, Age 44 years, R/o Village Khadgaon, Police Station Dharamjaigarh, District Raigarh (CG). Presently R/o Street No. Avenue-B, Quarter No. 15-A, Sector-7, Bhilai, Tahsil and Distt. Durg (CG).
2. Gajendra Kumar Kamat S/o Shri Premlal Kamat, Age 46 years, R/o Village Bangaon, PS Bangaon, Distt. Saharsa (Bihar), Presently R/o Street No.19, Quarter No.6-A, Sector-6, Bhilainagar, Tahsil and District Durg (CG).

---- RESPONDENTS

For Appellant	:Shri B. Gopa Kumar, Deputy Advocate General.
For respondents	:Shri AN Pandey, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****24/06/2016**

1. Heard on IA No.1 seeking condonation of delay in filing the petition.
2. For the reasons assigned in the application and considering the submissions to be satisfactory, IA No.1 is allowed and 73 days delay in filing the petition is condoned.
3. Challenge in this petition is to the judgment dated 29.07.2015 passed by the 1st Additional Sessions Judge, Durg, in Sessions Case No. 275/2013 whereby the court below has acquitted the respondents

from the charge under Section 306/34 IPC.

4. As per prosecution case, on 11.01.2013 at around 5:45 pm, Bishesar Prasad is said to have committed suicide by hanging himself. On taking him to the the Hospital, he was declared dead. Merg Intimation was reported at Police Station, Bhilai Nagar and the body of deceased was sent for Postmortem. The Doctor who conducted the Postmortem, gave his report that deceased had died because of asphyxia due to ante-mortem hanging. During the course of investigation, it is said that a suicide note handwritten by the deceased was found and in the said suicide note it was written that because of the harassment made by the respondents and also the fact that on couple of occasion, the respondents had assaulted him in front of his children, he does not want to live any more and therefore, had committed suicide.
5. Based upon the said suicide note and relying upon the investigation conducted, a criminal case No.122/2013 was registered and in due course offence under Section 306/34 IPC was also lodged against the respondents. The matter was put to trial before the court of Ist Additional Sessions Judge, Durg, who, vide impugned order dated 29.07.2015 found the respondents to be not guilty for the offence under Section 306/34 IPC and accordingly acquitted them from the charge. It is this judgment which is being assailed by the State seeking for leave to appeal.
6. Learned counsel appearing for the appellant assailing the judgment dated 29.07.2015 submits that he intends to contend only on two

grounds. Firstly; the court below has not appreciated the suicide note properly and secondly; the evidence of the wife of the deceased, Rambai (PW-4) has also been not appreciated properly. According to counsel for the appellant/ State, in the suicide note there is a specific averment in respect of harassment made by the respondents on account of which the deceased had no other option but to commit suicide.

7. A plain reading of the suicide note clearly reflects that the said suicide note does not show that the respondents have instigated the deceased to commit suicide. Further, the suicide note only refers to the fact that the respondents had on couple of occasion assaulted the deceased in front of his children. Likewise, if we peruse the deposition of Rambai (PW-4), wife of the deceased, there also the only averment made by the wife is that the respondents used to visit the house of the deceased frequently and used to harass him and on couple of occasions they have assaulted the deceased in front of the family members and on account of which, the deceased committed suicide. However, the deposition clearly shows that the dates on which the respondents had visited the house of the deceased was on 8th and 9th of January, 2013, whereas, the deceased is said to have committed suicide on 11/01/2013 i.e. after about 2-3 days.
8. Now we have to see as to whether for making out a case against the respondents for offence under Section 306/34 IPC, necessary ingredients for the said offence has been made by the prosecution or not, for which, the first ingredient required is abatement by the

accused persons for the commission of the suicide. Abatement has been defined under Section 107 of the IPC which clearly defines abatement and the ingredients for making out abatement is, there has to be instigation by the accused person forcing the deceased to commit suicide. Secondly; the accused person should also engage either individually or jointly conspiring for doing a thing which leads to commission of suicide and thirdly; there is intentionally aid by the accused persons by any act or an illegal omission leading to the commission of the suicide.

9. In the instant case, no such evidence has been either brought on record or has been proved by the prosecution in the course of evidence and in the absence of any of the ingredients as required under Section 107 IPC, no case under Section 306 IPC could be made out against the respondents.
10. Under the given facts and circumstances, this court does not find any good ground for granting for leave to appeal against the impugned judgment. Further, the trial court while deciding the judgment has rightly considered the law laid down by the Supreme Court in cases of Madan Mohan Singh Vs. State of Gujrat, reported in 2010 (8) SCC-628 and also in case of Sanju @ Sanjay Singh Senger Vs. State of Madhya Pradesh (2002(2)CGLJ-128.
11. For the foregoing reasons, the application for grant of leave to appeal is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE