

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 143 of 2017**

- State Of Chhattisgarh Through Station House Officer, Police Station Nawagarh District- Janjgir- Champa, Chhattisgarh.

---- Applicant**Versus**

1. Ramkrishan Kashyap S/o Lekhram Kashyap Aged About 32 Years R/o Village Tulsi, Police Station Nawagarh , District- Janjgir- Champa, Chhattisgarh.
2. Smt. Rajni Kashyap W/o Ramkrishan Kashyap Aged About 26 Years R/o Village Tulsi, Police Station Nawagarh, District- Janjgir- Champa, Chhattisgarh.

---- Non-applicants

For Applicant

Mr. Ashish Shukla, Government Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06.02.2017**

1. The present Revision Petition has been preferred against the order dated 21.11.2016 passed by the Sessions Judge, Janjgir District Janjgir-Champa in Sessions Trial No. 126/2016. Vide the said order the Court below has discharged the Respondents for the offence under Section 306 read with 34 IPC.
2. The brief facts in the instant case is that the on 09.04.2016 the deceased Pushpalata committed suicide by setting herself ablaze on account of which she sustained 99% burn injury. She was admitted to CIMS Hospital at Bilaspur where she died on

12.04.2016 at around 12:00 in the mid night. Merg intimation was lodged at the out-post CIMS, Bilaspur and thereafter an FIR was lodged and investigation was conducted in the matter. Subsequently charge sheet was filed and the matter was put to trial before the Court of Sessions Judge – Janjgir-Champa where the case was registered as Sessions Trial No. 126/2016. At the stage of framing of charge, the Court below after considering the evidence which were collected during the course of the investigation reached to the conclusion that the necessary ingredient for the offence under Section 306 IPC is not made out and thus discharged the Respondents accused from the said case. It is this order which has been assailed in the present Revision Petition.

3. Learned Counsel for the Petitioner State submits that the Court below has not appreciated the fact that for the purpose of framing of charge prima facie the material evidence which have been collected during investigation should be taken into consideration. He submits that the Court below has not appreciated the statement of the mother, sister and brother of the deceased who have categorically stated that it was on account of the humiliation which the Respondents had given to the deceased which forced her to commit suicide. According to the State Counsel the Statement of Chameli Bai, mother of the deceased, Ku. Khusbu, sister of the deceased and Durgesh, brother of the deceased

clearly reflect that she was under constant humiliation on part of the Respondents made upon the deceased of making regular theft from the house of the Respondents. It was also the contention of the State Counsel that the Court below at the stage of framing of charge should not have conducted a roving inquiry or for that matter a mini trial but should have only seen whether prima facie an offence is made out or not and thus prayed for setting aside of the order and remanding of the matter back to the trial Court for further adjudication of the case.

4. However taking into consideration the evidence of the complainant particularly the statement of Chameli Bai, mother of the deceased, Ku. Khusbu, sister of the deceased and Durgesh, brother of the deceased it clearly reflects that the Respondents in the instant case used to scold the deceased suspecting frequent theft from their house. In addition what is also reflected is the fact that on 10.04.2016 dying declaration was also recorded at hospital where the deceased has herself stated that Respondents were frequently abusing her suspecting of theft from their house and it is for this reason that she had committed suicide.
5. So far as the law in respect of the offence under Section 306 is concerned it is by now well settled by a series of decisions of the Supreme Court as well as of this Court that for making out offence under Section 306 IPC necessary ingredient required is the ingredient which has been envisaged under Section 107 of

the IPC, confining to an act of abetment. For considering whether the scope and ambit of Section 306 IPC has been properly appreciated by the Court below or not it would be relevant to reproduce Section 306 IPC which reads as under:

“306. Abetment of suicide - If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of suicide is confined to the case of persons who aid or abet the commission of the suicide. In the matter of an offence under Section 107 IPC, abetment must attract the definition thereof in Section 107 IPC. Abetment is constituted by instigating a person to commit an offence or engaging in a conspiracy to commit, aid or intentional aiding a person to commit it. It would be evident from a plain reading of Section 306 read with Section 107 IPC that, in order to make out the offence of abetment or suicide, necessary proof required is that the culprit is either instigating the victim to commit suicide or has engaged himself in a conspiracy with others for the commission of suicide, or has intentionally aided by an act or illegal omission in the commission of suicide.”

6. Taking into consideration the statements recorded it clearly reflects that there was no allegation of any instigation, incitement or act which compelled the deceased to commit suicide on the part of the Respondent. In absence of these ingredients which

are required for making out an act of abetment and which is necessary for bringing home offence under Section 306 IPC. It cannot be said that the Court below has committed any wrong while discharging the Respondents. This Court does not find any strong case calling for interference with the impugned order passed by the Court below.

7. Accordingly, the Revision Petition being devoid of merits stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE