

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 225 of 2017

1. State of Chhattisgarh Through District Magistrate Korba, Chhattisgarh.

---- Applicant

Versus

1. Mangal Singh S/o Firan Singh Uraon, aged about 30 years, R/o Sendripali, Police Station Pali, District Korba, Chhattisgarh.
2. Firan Singh S/o Samaru Uraon, aged about 58 years, R/o Sendripali, Police Station Pali, District Korba, Chhattisgarh.
3. Budhwara Bai W/o Firan Singh Uraon, aged about 55 years, R/o Sendripali, Police Station Pali, District Korba, Chhattisgarh.

---- Respondents

For Applicant/State – Shri Om P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

24/03/2017

1. Heard on I.A.No.1/2017 for condonation of delay in filing the Cr.M.P. for leave to appeal followed by acquittal appeal under Section 378(1) of the Code of Criminal Procedure, 1973 (in short 'the Code') after 9 days of its limitation.
2. For the reasons mentioned in I.A.No.1/2017 and the argument advanced, this Court is of the considered view that the applicant has satisfactorily explained the delay of 9 days in filing the instant petition followed by acquittal appeal. Consequently, I.A.No.1/2017 is hereby allowed and the delay of 09 days is hereby condoned.
3. Also heard on the instant Cr.M.P. which is a petition to grant leave against the respondents to hear the matter in acquittal appeal as the respondents were acquitted by the Additional Sessions Judge, Katghora, C.G. in Sessions Case No.9/2015. Vide order dated 25-10-2016 the learned the Court below acquitted the respondents, i.e., husband, father-in-law, mother-in-law of the deceased Smt. Rajanibai from the charges of abetment of suicide under Section 306 of the IPC.

4. Learned counsel for the applicant would submit that despite there was evidence for cruelty, no direct evidence can be available to prove the guilt. The relationship is undisputed. The Court below failed to appreciate the evidence, the prosecution proved the case against the respondents under Section 306 of the IPC. Hence, leave to appeal may be granted and the acquittal appeal may be heard on its merit.

5. Perused the judgment dated 25-10-2016 and the evidence adduced by the prosecution before the trial Court.

6. Undisputedly, Mangal Singh was husband of deceased Rajanibai, Firan Singh and Budhwara Bai are father-in-law and mother-in-law of the deceased. Marriage was solemnized about 7 to 8 years ago from the date of incident. There is no any evidence on record to demonstrate that this is a matter covered under Section 113A of the Indian Evidence Act, 1872. With this, the entire case has to be examined in the purview of Section 107 of the Indian Penal Code regarding abetment for suicide.

7. In the entire material, it appears that there was a demand Rs.10000/- from the deceased and also allegation that respondent No.1 is not doing any job, if taken into consideration both the allegations as correct, on face of the record, both the facts cannot form a basis for abetment as required under any of the limbs provided in Section 107 of the IPC. Also as per facts, the deceased and respondent No.1 was living separately, respondent No.2 and respondent No.3 were living separately.

8. Death of the deceased by setting her ablaze and thereby committal of suicide is not disputed.

9. On due consideration, after minute examination of the entire evidence, this Court is of the considered view that any of the ingredients as provided in Section 107 of the IPC is not proved by the prosecution witnesses so as to establish the guilt of respondents under Section 306 of the IPC. I do not see any

reason to interfere with the order of acquittal passed by the Court below and as such, the instant Cr.M.P. has no substances. Consequently, the instant Cr.M.P. is hereby dismissed.

10. Acquittal appeal filed along with the Cr.M.P. is also dismissed as not maintainable.

11. The Cr.M.P. dismissed.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE