

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 512 of 2017

- Shri Umashanker Pandey S/o Shri Manilal Pandey Aged About 48 Years
Working In S E C L R/o Quarter No. E.W.S. 30, Maharana Pratap Nagar,
Korba, Tehsil- Korba, District- Korba, Police Station Rampur Revenue & Civil
District Korba, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Police Station- Balconagar- Korba, District
Korba, Chhattisgarh.
2. Laxman Lal Adilay S/o Ratiram Adilay Aged About 47 Years R/o Quarter No A-
653, Sector 05, Balconagar, District Korba, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Ashutosh Shukla, Advocate.
For Respondent No.1/State	:	Shri Lav Sharma, Panel Lawyer.
For Respondent No.2		Shri Ravi Bhagat, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

09/10/2017

Heard.

1. It is submitted by learned counsel for the petitioner that petitioner has
been falsely implicated in Crime No.312 of 2016 registered at Police
Station Balco Nagar, District Korba for offence under Section 306 of
Indian Penal Code i.e. for abetting deceased Smt. Anita Adilay to commit
suicide.
2. Facts of the case are these, that deceased Anita Adilay committed
suicide on 22.1.2011, morgue intimation was registered and morgue
inquiry was conducted. Doctor has opined in the postmortem report that

cause of death of deceased was asphyxia due to ante mortem hanging. No statement was made by any of the witnesses during morgue inquiry against the petitioner. Subsequent to that, a suicide note was allegedly recovered and seized by the police in the course of morgue inquiry.

3. It is submitted by the counsel for petitioner that the police authorities kept mum for a period of about 6 years and then all of a sudden, FIR was registered on 1.12.2016 mentioning that delay has occasioned on account of pendency of morgue inquiry. Thereafter, statements of witnesses under Section 161 of Cr.P.C. were recorded and after completion of investigation, charge-sheet against the petitioner has been filed. Learned counsel for petitioner places reliance on the order of this Court passed in CRMP No.904/2012 (State of Chhattisgarh Vs. Mewalal Rathore and Others), which is a decision on appeal against acquittal, CRMP No.1109/2015 between Nandani Rathore & Others Vs. State of Chhattisgarh & another and also on the order of this Court in CRMP No.345/2015, parties being Chedilal Dewangan & another Vs. State of Chhattisgarh, in which the petitioners were discharged from offence under Section 306 of IPC on the basis that essential ingredients of Section 107 of IPC are completely lacking in the charge sheet filed by the police to charge the offender with offence under Section 306 of IPC. It is submitted that present case is identical to above cited cases and therefore the relief claimed by the petitioner be granted.
4. Learned counsel for the State opposes the submissions made and the grounds in the petition. It is submitted that simply on the ground of delay, the entire prosecution case cannot be thrown out, particularly when the delay is explained satisfactorily. It is also submitted that petitioner/accused had taken some objectionable photographs of deceased from

his mobile phone and was using the same against her. He used to threaten the deceased by saying that he would defame her by making her obscene photographs viral which compelled her to commit suicide. The suicide note clearly mentions how the deceased was tortured by the petitioner. Handwriting expert's opinion confirms that it is the hand writing of the deceased. Further, the prosecution case is also supported by the statement of the witnesses. Hence, petitioner is not entitled for any relief.

5. Heard both the parties and perused the documents on record.
6. In the given facts and circumstances of case, it cannot be said that present prosecution case is totality devoid of merit because it is the duty of the prosecution to explain the delay in lodging FIR and it shall be the discretion of trial Court to accept or reject it.
7. It is true that there is no direct evidence of abetment against the petitioner, but there are statements of witnesses coupled with suicidal note supported with the report of handwriting expert, which shows that petitioner allegedly threatened and tortured the deceased. Mode of abetment under Section 107 of IPC is to instigate any person to do a thing or to conspire by engaging with someone else for that purpose or intentionally aids deceased by illegal omission or commission to do that.
8. Judgments of this Court relied upon by the petitioners have been passed on different sets of facts, whereas in the given facts and circumstances of the case, the possibility of abetment cannot be prima facie ruled out altogether. No valid ground exists in the present case warranting interference in exercise of inherent jurisdiction in the order framing charge against the petitioner.

9. In view of reasons as aforementioned, the petition stands dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE

Nisha