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HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 1154 of 2015**

- State Of Chhattisgarh Through The Station House Officer, Police Station Ambagarh Chowki, Distt. Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

1. Doman Lal Soni S/o Girdhari Lal Soni Aged About 43 Years R/o Bajrang Chowk, Ward No. 10, Ambagarh Chowki, P.S. Ambagarh Chowki, Distt. Rajnandgaon, Chhattisgarh.
2. Manoj Kumar Soni S/o Doman Lal Soni Aged About 21 Years R/o Bajrang Chowk, Ward No. 10, Ambagarh Chowki, P.S. Ambagarh Chowki, Distt. Rajnandgaon, Chhattisgarh.

---- Respondents

For Petitioner/State	:	Shri Vinod Tekam, Panel Lawyer
For Respondents	:	Ms. Mandavi Bhardwaj, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

04/10/2018

1. Heard on I.A.No.1/2015, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, the same is allowed and delay of 58 days in filing the petition is condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (3) Cr.P.C.
4. The instant Cr.M.P. has been filed seeking leave to appeal against the judgment dated 07.07.2015, passed by the Sessions Judge, Rajnandgaon(CG) in ST No.37/2014, wherein the said Court has acquitted

the respondents from the charge under Section 306 of the I.P.C.

5. In the present case, name of the deceased is Smt. Pushpa Soni, who was wife of respondent No.1 and mother of respondent No.2. As per the case of prosecution, the deceased committed suicide on 19.4.2014 on account of assault by the respondents.

6. To substantiate the charge, prosecution has examined as many as 16 witnesses.

7. Mahettar Ram (PW1), Jitendra Soni (PW3), Parag Soni(PW7) are the witnesses to the incident. As per version of all these witnesses, prior to the incident, both the respondents have assaulted the deceased by hands and after assault, she ran away to the stairs and jumped from first floor of the house resulting into her death. It has come on record that respondent No.2 - Manoj Kumar Soni tried to stop her while she was running to the stairs.

8. The core issue for consideration of this Court is whether any assault made by the respondents is equivalent to abetment to commit suicide. To constitute an offence under Section 306 I.P.C., it is necessary that the case should fall within the ambit of Section 107 of the IPC, which should comprise of :

- (i) instigating a person to commit an offence
- (ii) engaging in a conspiracy to commit an offence
- (iii) intentionally aiding a person to commit an offence.

Therefore, a person said to have abetted, doing of a thing when he or she instigate any person to do so with any other means of abetment besides instigating are conspiracy and intentionally aid the commission and

it is sometime more than co-operation.

9. Though the assault was made on the deceased but the same is constituting different offence under Section 323 IPC for which no report was lodged and no action was taken. For commission of offence under Section 306 IPC, there should be live link between instigation and suicide. It could not be imagined that any assault would turn as intentionally aiding to commit suicide. Again, it cannot be equivalent to instigation to commit suicide or conspiracy to commit suicide. The trial Court has elaborately discussed all the issues and came to the conclusion that offence under Section 306 IPC is not made out. This Court has no reason to substitute a contrary finding and it is not a case where the respondent should be called for full consideration of the petition. Accordingly, the prayer for leave to appeal is rejected.

10. Consequently, Cr.M.P. stands dismissed.

Sd/

(Ram Prasanna Sharma)

Judge