

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.3232 of 1999**

1. Keshoram Verma, S/o Hanuman Prasad Verma, aged about 45 years, R/o Village and Post Siltara, Police Station Dharsinwa, District Raipur, M.P. (now Chhattisgarh)
2. Kheduram Verma, S/o Manbodh Verma, aged about 52 years, Resident of Village Sirri, Police Station Kharora, District Raipur---**Died, his appeal is abated vide order dated 20.2.2018**
3. Tikeram alias Tikeshwar, S/o Jailal Nayak, aged about 33 years, R/o Village Jamanidih, Police Station Basna, District Raipur

---- Appellants**versus**

State of Madhya Pradesh (now Chhattisgarh) through Special Police Station Raipur, District Raipur, M.P. (now Chhattisgarh)

--- Respondent

For Appellants	:	Shri Arun Kochar, Advocate
For Respondent	:	Shri Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****4.7.2018**

1. This appeal is directed against the judgment dated 29.11.1999 passed by the 4th Additional Sessions Judge, Raipur in Special Sessions Trial No.2 of 1992 convicting and sentencing each of the Appellants as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 306 read with Section 34 of the Indian Penal Code	Rigorous Imprisonment for 10 years and fine of Rs.2,000/- with default stipulation

2. Appellant No.2, Kheduram Verma has died during pendency of the instant appeal and the appeal, so far as it relates to him, has abated vide order dated 20.2.2018.

3. Prosecution case, in brief, is that the accused/Appellants were managing the affairs of a society, namely, Gramin Sahakari Samiti, Udela. Deceased Padman Bhoi was employed as a salesman in the said society. In the intervening night of 27th and 28th of August, 1990, Padman Bhoi committed suicide by hanging. Kotwar Lochan Singh (PW15) lodged a morgue report (Ex.P16). Inquest (Ex.P13) was prepared. Alleged suicidal letters (Articles A, B and C) were found in the pocket of the deceased which were seized vide Ex.P4. Post mortem examination was conducted on the dead body of the deceased by Dr. Nand Kishore Agrawal (PW13). His report is Ex.P9 in which he found that the cause of death was asphyxia. During morgue inquiry, it was found that the deceased had made some embezzlement in the society due to which the Appellants were harassing him and, therefore, he committed suicide. On the basis of that, offence was registered. Statements of witnesses were recorded under Section 161 of the Code of Criminal Procedure. On completion of the investigation, a charge-sheet was filed against the Appellants for offence punishable under Section 306/34 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act followed by framing of charges against them under Section 306/34 of the Indian Penal Code.
4. In support of its case, the prosecution examined as many as 19 witnesses. Statements of the Appellants were recorded under Section 313 of the Code of Criminal Procedure in which they denied the guilt, pleaded innocence and false implication. No witness has been examined in their defence.

5. After trial, the Trial Court convicted and sentenced the Appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.
6. Learned Counsel appearing for the Appellants submits that there is no evidence on record against any of the Appellants on the basis of which it could be inferred that they committed the alleged offence. The Trial Court has convicted the Appellants only on the basis of presumption that the alleged suicidal letters (Articles A, B and C) were written by the deceased, but there is no evidence on record to show that those letters were written by the deceased. He further submits that even if for the sake of argument it is considered that the Articles A, B and C were in the handwriting of the deceased, there is no content in those letters to show that the Appellants ever harassed the deceased.
7. Per contra, Learned Counsel appearing for the State opposes the arguments advanced on behalf of the Appellants and supports the impugned judgment of conviction and sentence.
8. I have heard Learned Counsel appearing for the parties and perused the record with due care.
9. From the statements of Shashidhar (PW1), Upendra (PW2), Biharilal (PW3), Kartar Singh (PW5), R.D. Kulhara (PW10) and Chhinaibai (PW17) who is mother of the deceased, it is clear that the deceased was working in the Gramin Sahakari Samiti, Udela as a salesman and committed suicide. Shashidhar (PW1), Upendra (PW2), Biharilal (PW3), Kartar Singh (PW5), Mohan (PW6), Nirpat Singh (PW7), Ghasia (PW8) and R.D. Kulhara

(PW10) have not supported the case of the prosecution in any way. They have been declared hostile by the prosecution.

10. Kartikram (PW12) is the witness who first saw the dead body of the deceased. He has stated that he saw the dead body of the deceased on the road and he also saw that a rope was laced in the neck of the dead body.
11. Kotwar Lochan Singh (PW15) is the witness who lodged morgue intimation (Ex.P16). Ex.P16 was recorded by R.K. Agrawal (PW19), Station House Officer, Police Station Basna.
12. Sub-Inspector Jawahar Mishra (PW11) has stated that he prepared inquest (Ex.P13). He has stated that during morgue inquiry, he seized the letters (Articles A, B and C) from the pocket of the deceased vide seizure memo (Ex.P4). Dakshram (PW14) has supported the above statement of Jawahar Mishra (PW11) and Chandan Singh (PW4).
13. Mohan (PW6) and Chhinaibai (PW17) are the brother and mother of the deceased, respectively. They have only stated that the deceased had committed suicide, but they have not stated anything else in favour of the prosecution or against the Appellants.
14. Dr. Nand Kishore Agrawal (PW13) conducted the post mortem examination on the dead body of the deceased. He has stated that his report is Ex.P9 in which he opined that the cause of death was asphyxia and the mode of death was suicidal. His query report is Ex.P14.

- 15.** A minute examination of the above evidence makes it clear that none of the prosecution witnesses have stated anything against the Appellants regarding any harassment subjected to the deceased by them by any means. The Trial Court has convicted the Appellants only on the ground that the letters (Articles A, B and C) were written by the deceased, but there is nothing on record to show/establish that those letters were written by the deceased himself. Even If, for the sake of argument, I presume that those letters were written by the deceased, perusal of the letters reveals that there is no content available in those letters to show/establish that the Appellants ever harassed the deceased. In these circumstances, the offence alleged against the Appellants under Section 306/34 of the Indian Penal Code is not proved beyond reasonable doubt.
- 16.** Consequently, the appeal is allowed. The impugned judgment of conviction and sentence is set aside. Appellants No.1 and 3 are acquitted of the charges framed against them.
- 17.** It is reported that Appellants No.1 and 3 are on bail. Their bail bonds shall continue for a further period of six months in terms of the provisions contained in Section 437A of the Code of Criminal Procedure.
- 18.** Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge