

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 351 of 2018**

- The State Of Chhattisgarh Through Police Station Gatapar, District Rajnandgaon Chhattisgarh.

---- Petitioner**Versus**

1. Harilal Sen S/o Nemsingh Sen Aged About 50 Years
2. Brijmohan S/o Rikhiram, Maithil Kshatri, Aged About 60 Years
3. Salikram Yadav S/o Rajau Yadav Aged About 39 Years
4. Keshav Ram Marar S/o Alluram Marar Aged About 55 Years
5. Purushottam Maithil S/o Rikhiram Maithil Kshatri Aged About 51 Years
6. Sewaram Sen S/o Sunderlal Sen Aged About 29 Years
7. Shivanandan Singh Kamthe S/o Rikhiram Khamthe Aged About 57 Years
8. Dhananjay Kumar Kanwar S/o Shyamlal Kanwar Aged About 42 Years

All R/o Village Achanakpur, Nawagaon, District Rajnandgaon Chhattisgarh

---- Respondents

For Petitioner/State : Shri Gary Mukhopadhyay, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

12/10/2018

1. Heard on the application for grant of leave to appeal filed under Section 378 (3) Cr.P.C.
2. The instant Cr.M.P. has been filed seeking leave to appeal against

the judgment dated 30.11.2017, passed by the Additional Sessions Judge, Khairagarh, Sessions Division, Rajnandgaon (CG) in ST No.19/2013, wherein the said Court has acquitted all the 8 respondents from the charges under Sections 294 and 306 read with Section 34 of the I.P.C. for abetment to commit suicide of one Ms. Ashisha who was daughter of Anjor Singh and for using obscene words in public place to cause annoyance to public at large.

3. Dr. Seema Thakur (PW8) conducted autopsy of the deceased and as per version of this medical expert, the deceased died due to asphyxia which might be caused by hanging. Ramika (PW5) is the younger sister of the deceased- Ms. Ashisha and Smt. Ashok Bai (PW6) is the mother of the deceased. Rest of the witnesses are not the witnesses regarding abetment and some of them have assisted during investigation after registration of the First Information Report. As per version of Ramika (PW5) and Smt. Ashok Bai(PW6), all the appellants have assaulted the deceased, but there is no evidence in support of the assault by all the 8 respondents. If 8 persons had assaulted and each one would have caused one injury, the deceased would have sustained at least 8 injuries. But, there is no medical evidence that injuries were found on the body of the deceased.

4. In the present case, date of incident is 9.6.2013 and autopsy of the deceased was conducted on 11.6.2013, but as per version of the Doctor conducting autopsy, she did not find any injury on the body of the deceased (para 6). Looking to the evidence of the medical expert, which falsifies the statements of Ramika (PW5) and Smt. Ashok Bai (PW6), the trial Court opined that the evidence adduced on behalf of the prosecution is not reliable regarding assault to the deceased which is mentioned as the only

reason for committing suicide by the deceased.

5. So far as charge under Section 294 I.P.C. is concerned, Ramika (PW5) and Smt. Ashok Bai (PW6) have made general statement against all the 8 respondents. When number of persons are implicated, act of each should be specifically mentioned otherwise, there is possibility of holding guilty to an innocent person.

6. Looking to the general statement made by the above two witnesses, it cannot be held that all the respondents or any of them have uttered obscene words against the deceased. The trial Court has elaborately discussed the entire evidence and this Court has no reason to record a contrary finding. It is not a case where all the 8 respondents should be called for full consideration of the petition. Accordingly, the prayer for leave to appeal is rejected.

7. Consequently, Cr.M.P. stands dismissed. Sd/

(Ram Prasanna Sharma)

Judge