

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 780 of 2018**

State of Chhattisgarh, Through-Police Station, Basantpur,  
District Rajnandgaon (C.G.)

---- **Petitioner**

**Versus**

1. Babloo Soni S/o Late Shri Narsingh Soni, Aged About 46 Years R/o Station Para, Ward No. 9, Thana O.P. Chikhli, Rajnandgaon, Present Address- Station Para, Ward No. 12, Rajnandgaon, District Rajnandgaon (C.G.)
2. Pawan Kumar Meshram S/o Kewal Das Meshram, Aged About 43 Years, R/o Kodikhana Road, Ward No. 40, Thana Basantpur, Rajnandgaon. Present Address- Ward No. 46, Basantpur, Rajnandgaon, District Rajnandgaon (C.G.)
3. Nirmal Chand Kothari S/o Umedchand Kothari, Aged About 49 Years, R/o Kamthi Line, Rajnandgaon, District Rajnandgaon (C.G.)
4. Raja Meshram @ Pradeep Meshram S/o Kewal Das Meshram, Aged About 41 Years, R/o Kodikhana Road, Basantpur, Rajnandgaon, District Rajnandgaon (C.G.)
5. Netram Sonwani S/o Mehattar Ram Sonwani, Aged About 43 Years, R/o Station Para, Ward No. 10, Under the Over Bridge, Police Chowki Chikhli, Rajnandgaon (C.G.)

---- **Respondents**

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For State/ Petitioner : Mr. Suryakant Mishra, Panel Lawyer.

For Respondents : None.  
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**Hon'ble Shri Justice Ram Prasanna Sharma**

**Order On Board**

**06/09/2018**

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 46 days in filing the petition is condoned.

3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 25.10.2017 passed by Additional Sessions Judge (FTC), Rajnandgaon, District- Rajnandgaon (C.G.) in Session Trial No. 158/2004, wherein the said court acquitted the respondents for commission of offence under Section 306 of IPC and Section 4 of Madhya Pradesh Protection of Debtors Act, 1937.
5. As per the case of prosecution, deceased Jitendra @ Bhola Mahobia borrowed money from respondents for running his betel shop. The respondents harassed him on count of higher rate of interest and for credited amount that is why he committed suicide.
6. To substantiate the charge, the prosecution examined as many as 15 witnesses. Seema Nonhare (PW-7) is sister of the deceased and Hemant Kumar Mahobia (PW-11) is brother of the deceased. Other witnesses are either witness of inquest or they assisted the agency during investigation about death of the deceased drowning in a river. Seema Nonhare (PW-7) deposed that her brother took loan from respondents and he was not able to repay the same that is why some persons came to deceased for demanding money. As per version of this witness, her brother (deceased) told her that they have threatened him to take away his sisters.

7. Hemant Kumar Mahobia (PW-11) (Para 6) deposed that the deceased told him that persons of Manoj Baghmare and Nirmal Kothari threatened him for returning the amount. From evidence of these witnesses, the only thing is established that the deceased borrowed the money and due to non-payment of the same, some persons demanded money from him. Version of both the witnesses is hearsay in nature. Now the point is whether hearsay witnesses are sufficient to establish the guilt.
8. In the matter of **Kalyan Kumar Gogoi Vs. Ashutosh Agnihotri** reported in **(2011) 2 SCC 532**, Hon'ble the Supreme Court has held as under:
 

“(a) the person giving such evidence does not feel any responsibility. The law requires all evidence to be given under personal responsibility, i.e., every witness must give his testimony, under such circumstance, as expose him to all the penalties of falsehood. If the person giving hearsay evidence is cornered, he has a line of escape by saying "I do not know, but so and so told me",

(b) truth is diluted and diminished with each repetition and

(c) if permitted, gives ample scope for playing fraud by saying "someone told me that.....". It would be attaching importance to false rumour flying from one foul lip to another. Thus statement of witnesses based on information received from others is inadmissible.”
9. On overall assessment of the evidence, the trial court opined that it is not a case where deceased has no option except to

end his life, but he had the option to lodge report in police for taking recourse to law regarding threatening by the respondents, therefore, in absence of direct evidence, intimidation for debt and abetment of suicide is not established. Finding of the trial court is based on proper marshaling of evidence and this Court has no reason to interfere with the said finding.

10. For the reasons stated hereinabove, it is not a fit case to grant leave to appeal. Accordingly, the same is hereby rejected.
11. Consequently, the petition stands dismissed at motion stage itself.

**Sd/-**  
**(Ram Prasanna Sharma)**  
Judge