

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 785 of 2018**

State of Chhattisgarh, Through- Police Station Janjgir, District-
Janjgir-Champa (C.G.)

---- **Petitioner**

Versus

1. Saroj Kumar @ Mantoo, S/o Manhaiya Sarthi, Aged About 27 Years.
2. Manhaiya Lal, S/o Sohan Sarthi, Aged About 55 Years.
Both are R/o Village Khokhara, Police Station- Janjgir, District-
Janjgir-Champa (C.G.)

---- **Respondents**

For State/ Petitioner : Mr. Lav Sharma, Panel Lawyer.

For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

23/10/2018

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 36 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 28.11.2017 passed by Additional Sessions Judge (FTC), Janjgir, District- Janjgir-Champa (C.G.) in Session Trial No. 22/2016, wherein

the said court acquitted the respondents for commission of offence under Section 306 read with Section 34 of IPC.

5. In the present case, name of deceased is Ku. Aarti. To substantiate the charge, the prosecution examined as many as 15 witnesses. From the evidence, it is established that respondent No.1- Saroj Kumar and the deceased have made physical relation prior to marriage and marriage of Saroj Kumar was solemnized in some different place because of objection of respondent No. 2 who is father of Saroj Kumar. As per dying declaration of the deceased, respondent No. 1- Saroj Kumar came to her after marriage and informed her that he is unable to take her to his house. From dying declaration, it is clear that act of suicide is independent act of the deceased and no one is responsible for her said act. Though, respondent No.1 - Saroj Kumar had married to some other place, but the same is not equivalent to instigation or intentionally aiding to commit suicide.
6. In order to substantiate the charge under Section 306 of IPC, it is compulsory that the case should fall within the ambit of Section 107 of IPC, which should comprise:-
 - (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.
7. Apart from that no other evidence is there on record to show that any positive act is done by the respondents to instigate or aid in committing suicide. The abetment involves a mental

process of instigating a person or intentionally aiding a person in doing a thing. There has to be a clear *mens rea* to commit offence. But in the present case, evidence of instigation is lacking. Evidence of any conspiracy and intentionally aiding is also lacking.

8. The trial court has elaborately discussed the entire evidence and this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge