

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1197 of 2018**

- State Of Chhattisgarh Through- Police Station Pamgarh, District- Janjgir-Champa, Chhattisgarh.

---- **Petitioner****Versus**

1. Pawan Banjare S/o Nathram Banjare Aged About 32 Years R/o- Village Chandipara, Police Station Pamgarh, District- Janjgir-Champa, Chhattisgarh.
2. Nathram Banjare S/o Dhansai Banjare Aged About 52 Years R/o- Village Chandipara, Police Station Pamgarh, District- Janjgir-Champa, Chhattisgarh.
3. Smt. Savitri Banjare W/o Nathram Banjare Aged About 50 Years R/o- Village Chandipara, Police Station Pamgarh, District- Janjgir-Champa, Chhattisgarh.

---- **Respondents**

For the Petitioner/State : Shri Ramakant Rao, Panel Lawyer
 For the respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

06.9.2018.

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 13 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This appeal has been preferred against judgment of acquittal dated 03.02.2018 passed by Additional Sessions Judge (FTC), Janjgir Distt. Janjgir Champa (CG) in Session Case

No.117/2016 wherein the said Court acquitted the respondents of the charges under Section 306 read with Section 34 of the Indian Penal Code, 1860 for abetment of suicide of one Smt. Reeta Bai on or before 08.08.2015 at Village Chandipara.

5. As per the case of the prosecution, deceased was married to respondent Pawan Banjare 11-12 years from the date of incident. It is alleged that all the respondents used to quarrel with the deceased that is why she poured kerosene on her body and lit the match stick thereby committed suicide.

6. To substantiate the charge, the prosecution has examined as many as 8 witnesses. Leela Bai (PW-3) is the mother of the deceased and she is the resident of Village Tulsi. As per the version of this witness, the deceased informed her during her lifetime that respondent Pawan used to assault her. Heera Sultania (PW-4) is the sister of the deceased and she is also the resident of village Tulsi. She also made general statement that the respondents harassed the deceased for unlawful demand of dowry and assaulted her. This witness is not the resident of the place of incident i.e. village Chandipara and therefore, she is unable to tell what had really happened with the deceased on the date of incident or prior to the date of incident. Santosh (PW-5) is the brother of the deceased. He deposed that the deceased during her lifetime told him that respondent Pawan used to assault her. All these witnesses have stated the version which was earlier told to them by the deceased.

7. The point for consideration before this Court is whether the hearsay evidence is legally admissible evidence and whether it can be acted upon.

8. In **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. In view of the above, hearsay evidence is second hand evidence and is inadmissible in evidence, therefore, second hand evidence cannot be acted upon to record any findings.

10. Rest of the evidence is related to the witnesses who assisted during investigation after registration of FIR. The trial Court evaluated the evidence as a whole and came to a conclusion that in absence of evidence, commission of abetment of suicide is not established and this Court has no reason to substitute the finding recorded by the trial Court.

11. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-

(Ram Prasanna Sharma)
JUDGE