

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRMP No. 1181 of 2018

Uttam Kumar Barman S/o Sampat Barman Aged About 34 Years Caste Satnami, R/o-
Dhobanideeh, Police Chowki Bhatgaon, P.S. Bilaigarh, District- Balodabazar-Bhatapara,
Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh --- **Petitioner**

Versus

State of Chhattisgarh through the Station House Officer, Police Chowki Bhatgaon, P.S.
Bilaigarh, District- Balodabazar-Bhatapara, Chhattisgarh. --- **Respondent**

03.07.2018	Mr. Roop Naik, counsel for the applicant. Mr. Sangharsh Pandey, Deputy Govt. Advocate for the State. By this petition filed u/s 482 of the Code of Criminal Procedure, the petitioner prays for quashment of First Information Report/ Crime No.201/2017 registered at Police Chowki, Bhatgaon, P.S. Bilaigarh, Distt. Balodabazar-Bhatapara for the offence punishable u/s 306 read with section 34 of IPC and subsequent criminal proceedings of Sessions Case No.62/2017 pending before the 2nd Upper Sessions Judge, Baloda Bazar. Learned counsel for the petitioner submits that no case of abetment is made out against the petitioner. He placed reliance in <i>V. Mohan vs. State represented by the Dy.Suptd. of Police (2011) 3 SCC 626</i> and submits that there should be clear <i>mens rea</i> to commit offence under section 306 IPC and it also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide. In the instant case, the	

statement of Kala Bai, would show that deceased Dhvajram Khunte had some altercation in the evening at village, thereafter he came back to the house and subsequently, he committed suicide, therefore, no case of abetment is made out. He further placed reliance in a case law reported in **(2010) 12 SCC 190 – S.S. Chheena v. Vijay Kumar Mahajan.**

Perused the documents.

The statement of Kala Bai, wife of Dhvaj Ram deceased shows that while Dhvaj Ram was sleeping in the night, at about 12.15 p.m., the present petitioner along-with others came and thereafter started assaulting. At that moment Kala Bai rushed out for help of one Anil and thereafter Anil went to get the help of his uncle Tijaram and Nirmal, subsequently when she came back to the house no one was present there including the deceased. Thereafter on 14.05.2017 in the morning, the dead body of Dhvaj Ram was found hanging from a tree. The postmortem report shows that the injuries were present including the lacerated wound of 3 x 0.5 cm., and multiple abrasions were found. The postmortem report further shows that the injuries were caused with hard and blunt object and the nature of injuries were ante-mortem. Though the postmortem report reflects that the cause of death was cardio-respiratory arrest due to asphyxia because of hanging, but if such report is read along-with statement of Kala Bai it would show that at about 12.15 a.m., in the night the deceased was assaulted by the petitioner and other persons. Thereafter when she went for help and came back, they were not found.

The reliance placed by the learned counsel for the

petitioner in *(2010) 12 SCC 190 – S.S. Chheena v. Vijay Kumar Mahajan* shows that the abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. In the present case the said act of abetment is still to be adjudged by the court below as the statement of Kala Bai categorically points out that the deceased was taken out from his house by the petitioner and others and was brought to somewhere-else and thereafter his dead body was found. The stage trial also shows that the trial Court is yet to frame charges. Therefore, at this stage, the law cited by the petitioner cannot be made applicable to this case so as to quash the entire proceeding u/s 306 of IPC.

The petition is devoid of merit and is dismissed.

Sd/-

**GOUTAM BHADURI
JUDGE**

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