

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1816 of 2017

State Of Chhattisgarh Through Police Station Khamhriya, District
Bemetara Chhattisgarh

---- Appellant

Versus

Tukaram Yadu S/o Rambhu Yadu, Aged About 28 Years R/o Ward
No. 13 Than Khamhriya, District Bemetara Chhattisgarh

-- Respondent

For State/appellant – Shri Bhaskar Payashi, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

12/02/2018

Heard.

1. Instant Cr.M.P. is for grant of leave to file an appeal against the order dated 21/09/2017 passed by the court of Additional Sessions Judge, Bemetara in CIS No. Sessions Case 2300026/2013.
2. Charges against the respondent/husband was that on 20/03/2012 at about 7' O clock deceased Smt. Batibai who was wife of the respondent was beaten and she was assaulted and the respondent has abetted the deceased to commit suicide. Thereafter, she committed suicide by setting herself ablaze. After filing of the charge sheet, the learned court below after evaluating the evidence acquitted the accused. Hence this petition.
3. Learned State counsel would submit that evidence so adduced by the prosecution would show that the deceased was subjected to abetment by the respondent and because of such fact she committed suicide by setting herself ablaze. He submits that statement of father PW-1 Banshi Yadu and mother PW-2 Parvati of the deceased would show that she was subjected to abetment by the respondent and inference should have been drawn by the court below, therefore order may be set aside.

4. Perused the documents. Undisputedly, one Batibai @ Panchbati Bai had sustained burn injuries on 20/03/2012 and she succumbed to such injuries on 21/03/2012 and postmortem report has been filed as Ex.P-9. In the FIR and the statement which was filed there is no allegation was made initially that since respondent/husband used to doubt the integrity and character of the wife, therefore she committed suicide. There is no dying declaration also exist on the record. The mother of the deceased Parvati PW-2 and father Banshi Yadu PW-1 reached immediately to the spot. They have not attributed the fact that respondent/husband has caused injury, however trivial dispute has been shown to be existing in between the husband and the wife. Mother further stated that the accused and the deceased used to go for earning livelihood jointly and she had undergone operation, thereafter she used to be under pain. She further stated that after marriage three children were born out of the wedlock, this fact that they were living happily was disclosed to the police.

5. Statement of PW-4 Shrawan Kumar Yadu brother of the deceased and PW-3 Premlal Yadu uncle of the deceased. They have also not stated anything which would amount to any abetment to cause suicide. PW-7 Ramfal Yadu and PW-13 Anita Yadu who are the Jeth and Jethani of deceased residing in the neighbourhood after hearing the noise when they reached to the house they saw that the deceased was lying in burnt condition and she told that while she was cooking whistle of the pressure cooker was thrown whereby lamp (chimney) kept in the wall fell down and caught fire. From the place vide Ex.P-7 pressure cooker was seized alongwith the broken chimney.

6. Under the facts of this case, evidence appreciated by the learned court below do not require any re-appreciation and this court is of the opinion that the prosecution has failed to bring any evidence so as to

convict the respondent.

7. In the result, application for grant of leave to defend has no merit and it is dismissed.

Sd/-

(Goutam Bhaduri)
JUDGE

gouri