

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1652 of 2017

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

---- **Petitioner**

Versus

Jitendra @ Chhotu Sarthi, S/o - Late Shri Radhelal Sarthi, Aged
about - 32 years, R/o - Village Bandha Bazar, Police Station
Ambagarh Chowki, District - Rajnandgaon (C.G.)

---- **Respondent**

For State/ Petitioner : Mr. A. N. Bhakta, Dy. A. G.

For Respondent : Ms. Arpana Singh, Advocate on behalf of
Mr. Rakesh Kumar Thakur, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

18/06/2019

1. Heard on I.A. No. 01/2017, application for condonation of delay in filing of instant 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 22 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 30th June, 2017, passed by Sessions Judge, Rajnandgaon (C.G.), in Sessions Trial No. 88/2015, wherein the said court acquitted

the respondent for charge under Section 306 of IPC, 1860 for abatement of suicide to his wife namely Seema Sarthi, who died on 7th September, 2015, in village Bandha Bazar due to complication of burn injuries.

5. To substantiate the charge, the prosecution examined as many as 14 witnesses. Dhela Bai (PW-1) is mother of the deceased and Tulsi Bai (PW-2) is sister of the deceased. Dhela Bai (PW-2) deposed before the trial Court that the respondent did not allow the deceased to go to her paternal home at the time of festival Tija. Tulsi Bai (PW-2) deposed on the same line. Rest of the witnesses have not deposed anything against the respondent and they are related to investigation after registration of FIR.
6. For establishing the charge under Section 306 of IPC, the ingredient of Section 107 of IPC has to be established which may be mentioned as under:-
 - (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.

Therefore, a person said to have abetted, doing of a thing when he or she instigates any person to do so with any other means of abatement besides instigating are conspiracy and intentionally aid the commission and it is sometime more than co-operation.

7. The only evidence available on record is that the respondent did not allow the deceased to go to her parental home at the time of festival Tija. In the present case, the date of incident is

6th September, 2015, but there is nothing on record to show as to how and what was really happened in the date of incident, which was sarcastic for her and dragged to end her life. If respondent is not allowed the deceased to go to her parental home at the time of festival of Tija, the same is not instigating or intentionally adding to commit suicide and the same cannot be treated as conspiracy against the deceased for commission of suicide.

8. After going through the entire records, it is not a case where any interference of this Court is required. The trial court has elaborately discussed the entire evidence and came to conclusion that the charges leveled against the respondent is not established. After reassessing the same, 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.
9. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge