

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 526 of 2019**

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

---- **Petitioner**

**Versus**

Ashish Kumar, S/o – Tiharu, Aged about - 30 years, R/o-  
Kachanda, Police Station- Jaijaipur, District- Janjgir- Champa  
(C.G.)

---- **Respondent**

-----  
For State/Petitioner : Shri V.B. Singh, Panel Lawyer.  
For Respondent : None.  
-----

**Hon'ble Shri Justice Ram Prasanna Sharma****Order On Board**

**10/05/2019**

1. Heard on I.A. No. 01/2019, 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 the judgment dated 9<sup>th</sup> October, 2018 passed by First Additional Sessions Judge, Sakti, District – Janjgir- Champa (C.G.) in Sessions Trial No. 168/2009 wherein the said Court acquitted the respondent for charge under Section 306 of IPC, 1860.

5. In the present case, name of the deceased is Suva Bai. It is alleged that she was residing as wife of the respondent in his house and she conceived from the respondent. The respondent left his house and did not come for 4 months that is why the deceased committed suicide by consumption of poisonous substance.
6. Santara Bai (PW-1), Selan Sawara (PW-2), Lahru Sawara (PW-3), Tiharu Kewat (PW-6), Manglu Ram Kewat (PW-13) and Jagadish (PW-14) deposed before the trial Court that the deceased died due to consumption of poisonous substance and some of the witnesses deposed that respondent left the house for 4 months that is why the deceased committed suicide.
7. For establishing 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 abetment besides instigating are conspiracy and intentionally aid the commission and it is sometime more than co-operation.

8. As has been held by ***Hon'ble the Supreme Court in 2010 (1) SCC 750 – Gangula Mohan Reddy Vs. State of Andhra Pradesh***, the abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. Without a positive act on the part of accused to instigate or aid in

committing suicide, conviction can not be sustained. The Hon'ble Supreme Court has further held that in order to convict a person under Section 306, there has to be a clear *mens-rea* to commit offence. It also requires an active act or direct act which leads deceased to commit suicide seeing no option and this act must have been intended to push deceased into such a position that she commits suicide.

9. In the present case, only evidence against the respondent is that he left the deceased for 4 months that is why she committed suicide. Even if entire evidence of prosecution is taken as it is, it is not sufficient to establish that respondent instigated or intentionally aided the deceased to commit suicide. There should be live-link by act of the respondent and death of the deceased, but that is not the case as per evidence adduced by the prosecution.
10. The trial court has elaborately discussed the entire evidence and 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. Accordingly, application for grant of leave to appeal is rejected.
11. Consequently, the petition stands dismissed at motion stage itself.

**Sd/-**  
**(Ram Prasanna Sharma)**  
Judge