

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 600 of 2019

State of Chhattisgarh: Through Station House Officer, Police
Station- Telibandha, District- Raipur (C.G.)

---- **Petitioner**

Versus

Ramesh Kurre, S/o - Chandrabali Kurre, Aged about - 27 years,
R/o Village- Tenduwa, Police Station- Nawagarh, District- Janjgir-
Champa (C.G.)

---- **Respondent**

For State/Petitioner	: Shri A.N. Bhakta, Dy. A.G.
For Respondent	: None.

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

16/04/2019

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 188 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 directed against the judgment dated 17th May, 2018 passed by First Additional Judge to the Court of First Additional Sessions Judge, Raipur (C.G.) in Sessions trial No. 186/2017 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 Ramesh Kurre who was married to Anju Kurre on 21.04.2015. The said Anju Kurre died by hanging on 09.04.2017 at Raipur (C.G.). Punaram Banjare (PW-3) who is father of the deceased and Smt. Pingla Devi (PW-4) who is mother of the deceased, have deposed before the trial Court that they have been informed by the deceased that respondent used to beat her for non-fulfillment of demand. Ramesh Kurre (PW-7) deposed on the same line. One suicidal note (Article 1-A) was seized during investigation and as per the suicidal note, the respondent used to beat the deceased that is why she committed suicide.

6. From the entire evidence, it is not clear as to what was really happened on the date of incident or prior to the date of incident. In order to substantiate the charge under Section 306 of IPC, 1860, it is compulsory that the case should fall within the ambit of Section 107 of IPC, which should comprise:-

- (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.

7. 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.

8. The prosecution was under obligation to establish that there are live-link between deceased and act of the respondent which is not established in the present case because there is no evidence to show as to what was sarcastic for deceased to take extreme step to end her life. Ordinary wear and tear between the spouses is not abetment to end her life, therefore, charge under Section 306 of IPC is not established.
9. The trial Court has elaborately discussed the entire evidence and recorded that no offence is established against respondent. After reassessing the entire evidence, this Court has no reason to record contrary finding and 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.
10. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge