

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 544 of 2018

State of Chhattisgarh, Through: Police Station- Sarangarh, District- Raigarh (C.G.)

---- Petitioner

Versus

1. Kanthi Prasad Sahu, S/o Shri Amritlal Sahu, Aged About 38 Years.
2. Amritlal Sahu, S/o Ganesh Ram Sahu, Aged About 65 Years.
3. Smt. Dhaneshwari, W/o Shri Amritlal Sahu, Aged About 60 Years.

All are R/o Village- Bhengnar, Police Station- Sarangarh, District- Raigarh (C.G.)

---- Respondents

For State/ Petitioner : Mr. Raghvendra Verma, Govt. Adv.

For Respondents : Mr. Raj Bahadur Singh, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

14/11/2019

1. Heard on I.A. No. 01/2018, 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 60 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 25.09.2017 passed by Additional Sessions Judge, Sarangarh, District-

Raigarh (C.G.) in Sessions Trial No. 27/2016, wherein the said court acquitted all the respondents for commission of offence under Section 306/34 of IPC, 1860 for abetment of suicide to Gayatri Bai who married with respondent No. 1- Kanthi Prasad Sahu 20 years ago.

5. In the present case, the deceased is Gayatri Bai who died on 29.06.2016 because she set her ablaze. The respondents were charge-sheeted for abetment of suicide. To substantiate the charge, the prosecution examined as many as 17 witnesses. Dolaram (PW-2) is brother of the deceased. He deposed regarding ill-treatment by the respondents, but he is unable to state as to what really happened in house of the deceased which is situated at Village- Bhengnar. The incident took place in Village- Bhengnar while this witness is resident of Village- Khoksipali. This witness had no occasion to see as to what was really going on in house of the deceased. His entire version is based on information given to him by the deceased.
6. Jailal (PW-3) is father of the deceased. He is also resident of Village- Khoksipali and he is unable to state as to what really happened on the date of incident. Sadhmati (PW-4) is mother of the deceased and she also deposed on the basis of imagination because she is resident of Village- Khoksipali while the incident took place at Village- Bhengnar.
7. As per version of Ramnarayan Sahu (PW-5), one meeting was convened 14-15 days ago in which issues between the parties

were settled and thereafter, the deceased went with respondent No. 1. Shouki Lal (PW-7) deposed about compromise between the parties. Ramcharan (PW-9) also deposed regarding compromise. Tekram (PW-10) deposed regarding ill-treatment by the respondents, but he is also not able to state as to what really happened on the date of incident or prior to the date of incident with the deceased. Dayanidhan Patel (PW-15) deposed before the trial court that mental balance of the deceased was not proper that is why her brother took her to hospital at Raipur and this witness is also not able to state as to what really happened on the date of incident or prior to the date of incident.

8. In order to substantiate the charge under Section 306 of IPC, 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.

9. All the witnesses examined by the prosecution are not the witnesses of the incident, but their version is either hearsay or imaginary. No suicidal note is collected during investigation.

No dying declaration is made in the present case. There should be a clear *mens-rea* to commit the offence and there should be a direct or active act by the respondents which leads the deceased to commit suicide, but that is not the case here as per the evidence adduced by the prosecution.

10. The trial court elaborately discussed the entire evidence and recorded finding of acquittal. After reassessing the same, this Court has no reason to record contrary finding. It is not a case where any interference of this Court is required with the judgment passed by the trial court. It is also not a case where respondents should be called for hearing again for full consideration of this petition. Accordingly, the application for grant of leave to appeal is rejected.
11. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge