

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 349 of 2019

- Gajendra Sahu & Others

---- Applicant

Versus

- State Of Chhattisgarh

---- Respondent

Post for pronouncement of the order on 02.08.2019

**JUDGE
Sd/-**

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HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on : 10.07.2019

Judgment delivered on : 02.08.2019

CRR No. 349 of 2019

- Gajendra Sahu And Others S/o Late Shri Gopal Prasad Sahu Aged About 30 Years R/o Krishna Nagar, Lane No. 06, P. S. Gudhiyari, District Raipur Chhattisgarh
- Mannu @ Manish Sahu S/o Late Shri Gopal Prasad Sahu Aged About 32 Years R/o Brahmadev Mandir, Jorapara, P. S. Moudhapara, District Raipur Chhattisgarh
- Bedin Bai W/o Late Shri Gopal Prasad Sahu Aged About 60 Years R/o Krishna Nagar, Lane No. 06, P. S. Gudhiyari, District Raipur Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through The Police Station Gudhiyari, District Raipur Chhattisgarh

---- Respondent

For Applicants	: Shri Maneesh Sharma, Advocate
For Respondent /State	: Shri Priyank Rath, PL

Hon'ble Smt. Justice Rajani Dubey

C A V Order

02/08/2019

Present revision arises out of the impugned order dated 31.01.19 passed by the learned Additional Sessions Judge to the Court of First Additional Sessions Judge, Raipur in S.T. No. 237/18

whereby the learned sessions court has framed charge against the applicants under Section 306/34 IPC.

2. Before the Sessions Judge, prosecution case is that deceased Renu Sahu was the wife of applicant No.1 whose marriage was solemnized in the year 2011 at Raipur and out of their wedlock two children were born. Applicant No.2 and 3 are brother-in-law and mother-in-law of the deceased. On 13.08.18, Renu Sahu committed suicide by hanging herself leaving behind a suicide note at his house. FIR was lodged against the applicants/accused and charge sheet was filed before the Chief Judicial Magistrate which was committed to the Sessions Court. Learned Sessions court framed charges for commission of the offence punishable under Section 306/34 IPC against all the applicants. Hence, the present revision.

3. Counsel for the applicants submit that even after considering and accepting the entire material available on record, it is absolutely correct and true, prima facie case for alleged commission of offence under Section 306/34 IPC is not made out against the applicants. The allegations as levelled against the applicants are so absurd and preposterous, the deceased has left behind a suicidal note which clearly demonstrates the actual fact and by going through the suicide note it cannot be said that the present applicants have been in any way abated the deceased to commit suicide.

4. Learned counsel for the applicants further pointed out that the case of the prosecution, even if taken in its entirety and is assumed for the purpose of this petition to be establish, does not disclose the offence under Section 306 IPC. He submits that Section 306 IPC has

to be read in the light of Section 107 IPC which defines 'abetment'. He submits that the ingredients of Section 107 are not made out in the present case as there is no instigation.

Prima facie, no allegation for commission of the offence punishable under Section 306/34 IPC can be levelled without there being present the ingredients of Section 107 IPC. Hence the aforesaid order of framing charges under Section 306/34 IPC against the applicants deserve to be quashed and set aside. Reliance has been placed in the matter of ***Sunil Kumar Sambhudayal gupta (Dr.) and Others Vs. State of Maharastra*** reported in ***(2010) 13 SCC 657***.

5. On the other hand, State counsel supports the judgment impugned and prayed for dismissal of the revision petition.

6. Heard counsel for the parties and perused the material available on record.

7. From perusal of charge sheet, prima facie it cannot be said that no instigation was there. In the statement of the witnesses, there are allegations made by them against the applicants. There is a stamp paper along with the charge sheet wherein it has been stated that if she commits suicide she herself would be responsible which was executed by the deceased and her signature was also there. Hence, prima facie it appears that ingredients of Section 107 of IPC are there for offence punishable under Section 306/34 IPC against the applicants. The parameters of "abetment" have been stated in Section 107 of the IPC, which defines abetment of a thing as follows:

"107. Abetment of a thing-A person abets the doing of a thing, who – First – Instigates any

person to do that thing; or Secondly-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or Thirdly – Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1- A person who by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigated the doing of that thing.”

Explanation to Section 107 states that any wilful misrepresentation or wilful concealment of material fact which he is bound to disclose, may also come within the contours of “abetment”. It is manifest that under all the three situations, direct involvement of the person or persons concerned in commission of offence of suicide is essential to bring home the offence under Section 306 of the IPC

8. In the context of the case in hand, there is no iota of doubt that no indulgence can be shown in the present case as prima facie there is sufficient material available on record regarding harassment caused to the deceased by the applicants, which pressurized the deceased to commit suicide.

9. The impugned order does not suffer from any illegality After examining the said finding, I am of the view that the trial court was correct in law in coming to the conclusion that a case for framing charge against the applicants had been made out. Once the finding of fact based on evidence is available on record, this Court in exercise of its revisional jurisdiction would not interfere with the finding of fact so arrived into.

10. For the above mentioned reasons, this revision petition has no merits, therefore, it deserves to be and is hereby dismissed.

Sd/-

(Rajani Dubey)
Judge