

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 852 of 2019**

State of Chhattisgarh: Through-The Incharge, Police Station- Kusmi,
District- Balrampur-Ramanujganj (C.G.)

---- **Petitioner**

Versus

1. Ravindra Kumar Bunkar @ Lehde, S/o - Krishnapal Ram, Aged about - 28 years, Occupation - Rajmistri, District- Balrampur-Ramanujganj (C.G.)
2. Krishnapal Ram, S/o – Pilchu, Aged about - 57 years, R/o - Village - Nikanthpur, P.S. Kusmi, District- Balrampur-Ramanujganj (C.G.)

---- **Respondents**

For State/Petitioner : Shri V.B. Singh, Panel Lawyer.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

13/05/2019

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 46 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 26th October, 2018 passed by Second Additional Judge to the Court of Additional Sessions Judge, Ramanujganj, District – Balrampur (C.G.) in Sessions Trial No. R 60/2017 wherein the said Court acquitted the respondents for charge under Section 306 of IPC, 1860.

5. In the present case, name of the deceased is Usha who was married to respondent No. 1 10 years ago. One son and one daughter born out of said wedlock. The deceased committed suicide on 15th June, 2017.
6. To substantiate the charge, the prosecution examined as many as 8 witnesses. Ram Dev (PW-1) is father of the deceased. As per version of this witness, the respondents charged the deceased that she is having illegal relation with some other person and this was stated by the respondents in a punchayat convened in the village. From the entire evidence, it is not clear as to what was day of said meeting of punchayat and for how many days prior to the date of incident, it was convened.
7. As per commission for offence 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. For commission of offence under Section 306 there should be live-link between act of the respondent/accused and act of the deceased, but it is not clear whether deceased committed suicide on the ground that respondents charged her in Village Panchayat regarding illegal relationship. No dying declaration was recorded in the present case and no suicidal note was seized in support of version of prosecution, therefore, it is not clear that charging by respondents were the cause of commission of suicide.
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 respondents 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