

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.864 of 2019**

- State Of Chhattisgarh Through The Incharge Police Station Manpur, District- Rajnandgaon, Chhattisgarh.

---- **Petitioner****Versus**

- Yugal Kishore Korram S/o Puranik Lal Korram Aged About 28 Years R/o Village Shikari Mahka, P.S. Churiya, Present Address CSEB Sub Station District- Rajnandgaon, Chhattisgarh.

---- **Respondent**-----
For the Petitioner/State : Shri Afroj Khan, Panel LawyerFor the respondent : None
-----**Hon'ble Shri Justice Ram Prasanna Sharma****Order On Board****10.5.2019.**

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.

2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 61 days in filing the petition is hereby condoned.

3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.

4. This petition is preferred against the judgment of acquittal dated 05.10.2018 passed by Sessions Judge, Rajnandgaon (CG) in Session Trial No.21/2017 wherein the said Court acquitted the respondent for the charge under 306 of the Indian Penal Code, 1860 for abetting Ku. Dileshwari Mandavi to commit suicide on or before 18.12.2016 at CSEB Sub-station Control Room.

5. Panna Lal (PW-1) deposed before the trial Court that Dileshwari committed suicide by hanging at CSEB Control Room Office. Bhuneshwar Prasad Sahu (PW-2) deposed on the same line. Nutan Bharti (PW-3) deposed that deceased died as the respondent did not return the money borrowed by him from the deceased. Reshma Netam (PW-4) deposed before the trial Court that it is informed by the deceased that one month before the date of incident, she gave Rs.50,000/- to the respondent but he had not returned the amount. Amita Netam (PW-5) deposed before the trial Court that the deceased informed her that she was willing to marry the respondent but the respondent had not consented. She further deposed that deceased gave Rs.50,000/- to the respondent after taking loan from women group, but he did not return the said amount. One note book was seized and it is alleged that the same was written by the deceased, but nothing is mentioned against the respondent in the said note book. From the entire evidence, it is not clear as to what really happened on the date of incident or prior to the date of incident which was sarcastic for the deceased to end her life.

6. In order to hold the person guilty under Section 306 of the IPC, it is necessary that the case should fall within the ambit of Section 107 of the 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 instigate 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 U/s.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 he commits suicide.

8. In the present case, there is nothing on record to connect the respondent in crime in question. There is nothing on record that the respondent instigated or intentionally aided the victim to end her life. There should be a live link between the act of the respondent and the death of the victim, but the same is missing in the entire evidence on the record.

9. The trial Court has elaborately discussed the entire evidence and recorded finding of acquittal. After reassessing the evidence, this Court has no reason to record a contrary finding. This is not a case where the respondent should be called for full consideration of the case.

10. Accordingly, the application for leave to appeal is rejected.
Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE

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