

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 889 of 2019**

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

---- **Petitioner**

Versus

Sonalal, S/o- Balkaran Rajwade, Aged about- 25 years, R/o- Village - Kailashpur, Police Station - Sonhat, District-Koriya (C.G.)

---- **Respondent**

 For State/Petitioner : Shri Afroj Khan, Panel Lawyer.
 For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board**

14/05/2019

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 146 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 20th July, 2018 passed by Additional Sessions Judge (FTC), Baikunthpur, District - Koriya (C.G.) in Sessions Trial No. 01/2018, wherein the said Court acquitted the respondent for charge under Section 306 of IPC, 1860 for abetment of suicide of his wife namely Parvati Bai on 20th August, 2016 at Village – Kailashpur, District – Koriya (C.G.).

5. In the present case, name of the deceased is Parvati Bai who married to the respondent. To substantiate the charge, the prosecution examined as many as 14 witnesses. Smt. Indrakuwar Rajwade (PW-2) deposed before the trial Court that she heard some noise from house of the respondent and reached there and saw that the respondent was beating his wife by hand.
6. Umawati Rajwade (PW-6) is mother of the deceased. She is not resident of Village – Kailashpur where the incident took place. This witness is residing at Village – Keshgwa and as per version of this witness, when she reached house of the respondent where respondent asked her to take the deceased to her home, but she did not take the deceased to her home.
7. Jai Prakash Rajwade (PW-7) who is father of the deceased deposed on same line. Bishunlal Rajwade (PW-8) also deposed on the same line. Rest of the witnesses are witnesses of investigation after registration of FIR. Umawati Rajwade (PW-6) and Jay Prakash Rajwade (PW-7) had no occasion to see as to what is going in house of the deceased because they are resident of Keshgwa and they reached to the house of the respondent only on his calling. From their evidence, it is not established that what was sarcastic for the deceased to end her life. Smt. Indra Kuwar Rajwade (PW-2) deposed that the respondent beaten the deceased by hand and as per version of this witness, the incident happened because the deceased did not open the door when the respondent knocking the door.
8. Looking the statement of this witness, it appears that whatever happened between husband and wife was ordinary wear and tear of

life without instigating by intentionally aiding by him for dragging the deceased to and her life.

9. For establishing the charge 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.

10. 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.

11. For establishing charge under Section 306 of IPC, there should be live-link between act of the respondent/accused and the act of the deceased, but that is not the case here. The entire evidence even

take as it is, the same is not sufficient to establish that the respondent instigated or intentionally aided the deceased for ending her life.

12.The trial Court has 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 respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.

13.Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge