

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 884 of 2019

State of Chhattisgarh, Through the Incharge Police Station,
Chhuikhadan, District - Rajnandgaon (C.G.)

---- **Petitioner**

Versus

Santaram Pal, S/o - Dhansai Pal, Aged about - 52 years, R/o -
Village Khairi, Police Station Chhuikhadan, District -
Rajnandgaon (C.G.)

---- **Respondent**

For State/ Petitioner : Shri Ravish Verma, G.A.

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 26 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 19th November, 2018, passed by Upper Sessions Judge, Khairagarh, District - Rajnandgaon (C.G.) in Sessions Trial

No. 14/2016, wherein the said court acquitted the respondent for commission of offence under Section 306 of IPC, 1860 for abetment of suicide of Ku.Madhu Pal.

5. In the present case, name of deceased is Ku. Madhu Pal, who died on 30th May, 2016 by pouring kerosene on her body and set her ablaze. It is alleged that the respondent made imputation against deceased that she keeps mobile, roaming in and talking with number of boys and her conduct is not proper.
6. To substantiate the charge, the prosecution examined as many as 11 witnesses. No one deposed before the trial Court that the respondent made any imputation or publication regarding character of the deceased. Case of the prosecution is based on alleged dying declaration of the deceased in which she stated before the police that such imputation was made by the respondent. For imputation, it is necessary that word should be spoken to others or publication should be made in this regard with intent to harm reputation of such person.
7. In the present case, no one deposed before the trial Court that the respondent spoke any words against the deceased or published any material against the deceased, therefore, it is not established that the respondent was having intension to harm reputation of the deceased.

8. 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.

9. 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 commission of offence under Section 306, there should be live-link between act of the respondent/accused and act of the

deceased, but from the entire evidence, it is not established that the respondent is liable for damaging reputation of the deceased. In absence of direct link, the trial Court recorded finding of acquittal.

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