

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1014 of 2019

State of Chhattisgarh, Through - Station House Officer, Police
Station Marwahi, District - Bilaspur (C.G.)

---- Petitioner

Versus

1. Krishna Kumar, S/o - Gayadas Raidas, Aged about - 39 years,
R/o - Village Bargawa, Police Station Marwahi, District -
Bilaspur (C.G.)
2. Janki Bai Raidas, W/o - Krishna Kumar Raidas, Aged about -
38 years, R/o - Village Bargawa, Police Station Marwahi,
District - Bilaspur (C.G.)

---- Respondent

For State/ Petitioner : Mr. Afroj Khan, Panel Lawyer
For Respondent : none

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

19/06/2019

1. Heard on I.A. No. 01/2019, application for condonation of
delay in filing of instant 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 61 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 24th August, 2018, passed by Additional Sessions Judge, Pendra Road, District - Bilaspur (C.G.), in Sessions Case No. 11/2018, wherein the said court acquitted the respondents for charge under Section 498 – A, 306 read with Section 34 of IPC, 1860 for abatement of suicide of one Pushpalata @ Pinki who was wife of respondent Krishna Kumar.
5. Respondent No. 2- Janki Bai is relative of Krishna Kumar. The case of the prosecution is based on statement of Laliya Bai (PW-3) who is mother of the deceased, Narayan (PW-2) who is father of the deceased and Mamta (PW-4) who is sister of deceased. All the other witnesses have not supported version of the prosecution and their statement related to the investigation assisted after registration of FIR, therefore, other witnesses are not material witnesses for deciding the issue.
6. Statement of Laliya Bai (PW-3) is based on information given to her by the deceased. She had no occasion to see what was going on in the house of deceased on or before 2nd June, 2017 which is the date of the incident. Version of Narayan (PW-2) is also based on information given to him by the deceased. As per evidence of the Mamta (PW-4), the deceased informed at one point of time that in-laws that is mother-in-law and father-in-law are not providing her soap and other article, that is not abatement to end her life by anyone and the same cannot be equated with instigating or intentionally adding for abatement of suicide.

7. Version of Laliya Bai and Narayan is hear say in nature and as per their version the deceased informed them that the respondents made comment that ring and motor-cycle was not given at the time of marriage. Hear say evidence is second hand evidence and same is not the best piece of evidence. It is based on information given by others which is not of sterling quality and the trial Court did not act on the said statement.
8. 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 abatement besides instigating are conspiracy and intentionally aid the commission and it is sometime more than co-operation.
9. For establishing charge under Section 498- A of IPC, ingredient of cruelty ought to have been established but same is not established by cogent evidence. No one deposed before the trial Court that what was really happened prior to the date of incident which was sarcastic to the deceased to end her life.
10. Looking to the entire evidence, ingredient for charge under Section 306 and 498 – A is lacking. The trial Court elaborately

discussed the entire evidence and recorded finding that the charges are not established. The trial Court further opined that when basic ingredient are lacking, presumption of Section 113 of Indian Evidence Act, 1872 is not available in the present case.

11. 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.
12. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge