

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1769 of 2019

- State Of Chhattisgarh Through Station House Officer, Police Station Berla District Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh

---- **Petitioner**

Versus

- Iliyas Khan S/o Gulbahar Khan Aged About 32 Years R/o Ward No. 4 Berla, Police Station Berla District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh

---- **Respondent**

For petitioner/State : Mr. Raghavendra Verma, G.A.

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

18-11-2019

1. Also heard on application for leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This petition is directed against the judgement dated 11-2-2019 rendered by the Sessions Judge, Bemetra, District Bemetra (CG) in Sessions Case No. 45 of 2018 wherein the said court acquitted the respondent for charge under Section 306 of the IPC, 1860.
3. In the present case, name of the deceased is Rampyari Sahu who died on 9-6-2018 at 11.00 a.m., by setting herself ablaze.

4. To substantiate charge, prosecution examined as many as seven witnesses. No one deposed against the respondent except PW/6 Prahlad Verma. This witness deposed before the trial court that the respondent assured her to marry but later on he refused to marry her that is why she committed suicide. This witness has not informed anyone regarding the statement made by victim on 9-6-2018. His statement under Section 161 of the Cr.P.C. is recorded on 18-9-2018 i.e., after more than three months of the incident. No dying declaration was recorded in the present case and no suicidal note was seized.

5. The trial court after evaluating the entire evidence recorded finding that statement of Prahlad Verma (PW/6) who stated before Investigating Officer after three months of the incident is not dependable, even otherwise, refusal of marriage is not equivalent of abetment. For commission of offence under Section 306 of IPC following ingredients of Section 107 of IPC has to be established

- (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

6. In the present, there is no link between death of the deceased and any active act of the respondent. The trial Court after evaluation of entire evidence recorded finding of acquittal. After going through the

record, it is not a case where interference of this court is required in the judgement of the trial court. It is not a case where respondent should be called for full consideration of this petition.

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

Sd/-

(Ram Prasanna Sharma)

Judge

Raju