

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURACQA No. 636 of 2019

- Ram Avtar Sharma S/o Late Jagdish Prasad Sharma Aged About 53 Years R/o Nevra Police Station Vevra District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Station House Officer Police Station Nevra District - Raipur Chhattisgarh.
2. Hemant Verma S/o Narendra Verma Aged About 30 Years R/o Ward No. 13 Goverdhan Nagar Ward Nevra, Police Station Nevra District - Raipur Chhattisgarh.
3. Chandrika Prasad Verma S/o Dhkhuram Verma Aged About 48 Years R/o Ward No. 15 Behind Ware House, Nevra, Police Station Nevra District - Raipur Chhattisgarh.
4. Himmat Verma S/o Balaram Verma Aged About 46 Years R/o Ward No. 15 Behind Ware House, Nevra, Police Station Nevra, District - Raipur Chhattisgarh.

---- Respondents

 For the Appellant : Shri F.S. Khare, Advocate
 For the State : Shri Ishwar Jaiswal, PL.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****02-12-2019**

1. This appeal is preferred against the judgment dated 7-6-2019 passed by 2nd Additional Sessions Judge Raipur, District Raipur, (C.G.) in Sessions Trial No.190 of 2017 wherein the said Court acquitted the

respondents No2, 3 and 4 for charge under Section 306 read with Section 34 of IPC.

2. In the present case, name of the deceased is Apoorva Sharma who died by consuming poison on 2-4-2016. It is alleged that respondents No.2, 3 and 4 harassed the deceased which is mentioned in a suicidal note made by the deceased that is why they were charge-sheeted and acquitted after completion of trial.
3. Learned counsel for the appellant would submit that charge under Section 306 of IPC is established on the basis of suicidal note but the trial court did not appreciate the evidence in its right perspective, therefore, same is liable to be set aside.
4. To substantiate the charge, the prosecution examined as many as 13 witnesses. As per version of Ramavatar Sharma (PW/4), Pooja Sharma (PW/5), Vaibhav Sharma (PW/6), Kailash Sharma (PW/7) and P. Naveen (PW/11) deceased had love affair with one Varsha Rani who committed suicide and deceased was arrested in the said case for commission of abetment of suicide. The deceased was released on bail in the said case and thereafter, respondents No.2, 3 and 4 harassed him that is why he committed suicide on 2-4-2016.

5. From the evidence it is not clear as to what really happened on the date of incident i.e., 2-4-2016 or prior to the date of incident. No one deposed before the trial Court that deceased had written suicidal note in their presence. No handwriting expert was examined before the trial court to establish that the said suicidal note was written in hand-writing of the deceased, therefore, there is no evidence to connect respondents No. 2, 3 and 4 with the help of said suicidal note.

6. For commission of offence under Section 306 of IPC ingredients mentioned in 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.

7. In the present case, the entire evidence is based on information given by deceased which is hearsay in nature. In **Kalyan Kumar Gogoi Vs. Ashutosh Agnihotri reported in (2011) 2 SCC 532**, Hon'ble the Supreme Court has held as under:-

"(a) the person giving such evidence does not feel any responsibility. The law requires all evidence to be given under personal responsibility, i.e., every witness must give his testimony, under such circumstance, as expose him to all the penalties of falsehood. If the person giving hearsay evidence is concerned, he has a line of escape by saying "I do not know, but so and so told me,"

(b) truth is diluted and diminished with each repetition and,

(c) if permitted, gives ample scope for playing fraud by saying "someone told me that.....". It would be attaching importance to false rumor flying from one foul lip to another. Thus statement of witnesses based on information received from others is inadmissible."

8. In the present case, there is nothing on record to establish that there is live-link between the act of above respondents and death of deceased. *Mens rea* on the part of the respondents is also not lacking. The trial court after elaborately discussing the entire evidence recorded finding of acquittal. After going through the record, this court has no reason to take a contrary view what is recorded by the trial court. It is not a case

where interference of this court is required with the judgment of the trial court. It is also not a case where respondents should be called for full consideration of this appeal.

9. Accordingly, the appeal being devoid of merit is liable to be and is hereby dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge

Raju