

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.2381 of 2018**

- State Of Chhattisgarh Through Police Station- Charama, District- Uttar Bastar, Kanker, Chhattisgarh.,

---- **Petitioner****Versus**

- Pavan Kumar Yadav S/o Late Mohan Lal Yadav Aged About 34 Years R/o Village- Puri, Police Station- Charama, District- Uttar Bastar, Kanker, Chhattisgarh.

---- **Respondent**

 For the Petitioner/State : Shri Lav Sharma, Panel Lawyer
 For the respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

04.01.2019.

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 25 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition has been preferred against judgment of acquittal dated 23.6.2018 passed by Additional Sessions Judge, (FTC), North Bastar, Kanker (CG) in Session Trial No.44/2016 wherein the said Court acquitted both the respondent for the charges under Sections 306 of the Indian Penal Code for abetting his wife namely Rajeshwari Yadav to commit suicide.

5. In the present case deceased Rajeshwari Yadav was married with the appellant 15-16 years prior to the date of incident. Date of incident is 13.3.2016. As per the postmortem report the deceased died due to burn injuries.

6. To substantiate the charges the prosecution has examined as many as 13 witnesses. No one deposed regarding the incident except Smt. Tulsi Bai (PW-6) who is the mother of the deceased. As per the version of this witness, the respondent used to quarrel with the deceased that is why she used to stay in her parental house often. Version of this witness is vague in nature and it is not clear as to what really happened on the date of incident between the deceased and the respondent. This witness is the resident of village Kishpuri while the incident took place at village Puri. This witness had no occasion to know what had really happened in the matrimonial house of the deceased.

7. For establishing the offence under Section 306 of the IPC, it is necessary that the case should fall within the ambit of Section 107 of the IPC, which should comprise :

- (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 instigate 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.

8. From the entire evidence it is not clear as to what really happened on the date of incident and prior to the date of incident which was sarcastic for the deceased and instigated her to end her life. Looking to the insufficient evidence, the trial Court opined that the charges under Section 306 IPC is not established. After going through the evidence, this Court has no reason to substitute a contrary finding. It is not a case where the respondent should be called for full consideration of the petition.

9. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE