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HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.218 of 2019**

State Of Chhattisgarh Through Police Station Narharpur,
Distt. North Bastar Kanker Chhattisgarh.

---- Petitioner**Versus**

Sukchand Salam, S/o. Brijlal Salam, aged about 29 years,
R/o. Village Manikpur, Police Station Narharpur, Distt. North
Bastar Kanker (CG)

---- Respondent

For the Petitioner/State : Smt. Subha Shrivastava, Panel Lawyer
For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****20.3.2019.**

1. Heard on application for grant of leave to appeal under Section 378(3) of CrPC.
2. This petition is preferred against the judgment of acquittal dated 09.10.2018 passed by Additional Sessions Judge (FTC), North Bastar Kanker (CG) in Session Trial No.94/2016 wherein the said Court acquitted the respondent for the charge under 306 of the Indian Penal Code, 1860 for abetting his wife namely Lalita Salam to commit suicide.
3. In the present case, date of incident is 04.9.2016. Smt. Patrangi Bai (PW-7) is mother of the deceased. But as per the version of this witness, she is not aware of the fact that there was any quarrel between the deceased and the respondent or whether any altercation took place between them. Ranjit Kumar (PW-8), is brother of the deceased. He is also not able to tell whether any

quarrel was there between the deceased and the respondent. Gaitan Singh (PW-9) is parental uncle of the deceased and as per the version of this witness when he met the deceased earlier she informed him that the appellant beaten her after consuming alcohol. But from the version of this witness, it is not clear when he met with the deceased, therefore, from his evidence it is not clear that what happened on the date of incident and prior to the date of incident. The prosecution has examined number of witnesses and from the statement of the Jamunabai (PW-2), Bhartmati (PW-3), Sanjya Kumar Kunjam (PW-10), Dhanraj (PW-11) and Sahdev Netam (PW-12), it is not established that there was quarrel between the deceased and the respondent on the date of incident or prior to the date of incident.

4. To substantiate the charge, the prosecution is under obligation to establish the ingredients of Section 107 IPC which relates to abettment which may be read 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 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.

5. In the present case, the prosecution is not able to establish the real cause of suicide of the deceased. If no evidence is

satisfactorily adduced to establish the instigation or intentional aiding on the part of the respondent, act of the deceased may be inferred as independent act of her own for which the respondent cannot be faulted with.

6. The trial Court has elaborately discussed the entire evidence and recorded finding of acquittal. After reassessing the evidence, this Court has no reason to record a contrary finding. This is not a case where the respondent should be called for full consideration of the case.

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

Sd/-
(Ram Prasanna Sharma)
JUDGE