

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 185 of 2019**

State of Chhattisgarh, Through- Thana Mungeli, District- Mungeli (C.G.)

---- Petitioner**Versus**

1. Dani Ram, S/o Gajadhar Chandrawanshi, Aged 74 Years.
2. Uma Bai Chandrawanshi, W/o Daniram, Aged 58 Years.
3. Narendra Chandrawanshi, S/o Daniram Chandrawanshi, Aged 40 Years.
4. Mahendra Chandrawanshi, S/o Daniram Chandrawanshi, Aged 40 Years.

All are R/o Village- Dongariya, Chowki Pandatarai, Thana Kunda, District- Kawardha (C.G.)

---- Respondents-----
For State/ Petitioner : Mr. A.N. Bhakta, Dy. A.G.For Respondents : None.
-----**Hon'ble Shri Justice Ram Prasanna Sharma****Order On Board****10/04/2019**

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the 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 4 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 18.09.2018 passed by Additional Sessions Judge, Mungeli, District-

Mungeli (C.G.) in Session Trial No. 200/2000, wherein the said court acquitted all the four respondents for commission of offence under Section 306 of IPC, 1860.

5. In the present case, name of the deceased is Chitrarekha who was married to respondent No. 3- Narendra Chandrawanshi in the year 1999. The deceased died on 28th March, 2000 other than in normal circumstances. Respondent No. 1- Dani Ram is father-in-law, respondent No. 2- Uma Bai Chandrawanshi is mother-in-law and respondent No. 4- Mahendra Chandrawanshi is brother-in-law (Devar) of the deceased. Narad (PW-3) is father of the deceased, whose statement is based on information given to him by the deceased during her lifetime. He deposed that his daughter informed him regarding harassment by the respondents for non-bringing motor-cycle and giving less ornament at the time of marriage.
6. Arjun (PW-4) who is maternal grand-father of the deceased, deposed on the same line and his version is also based on information given to him by the deceased. Ghurau Prasad (PW-2) deposed before the trial court that Chitrarekha was not willing to stay with respondent No. 3- Narendra Chandrawanshi. Bhagwani Singh Chandrawanshi (PW-10) deposed on the same line that the deceased was not willing to stay with respondent No. 3- Narendra Chandrawanshi and she disliked her husband.
7. From the entire evidence, it is not clear as to what was really happened on the date of incident or prior to the date of incident because the incident took place in the Village- Dongariya while

the witnesses are resident of Village- Pandariya, Dalpuruva, Mohtara and Jhalmala.

8. In order to substantiate the charge under Section 306 of IPC, it is compulsory that the case should fall within the ambit of Section 107 of 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 instigates 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.

9. As has been held by Hon'ble the Supreme Court in the matter of **Gangula Mohan Reddy Vs. State of Andhra Pradesh** reported in **2010 (1) SCC 750**, the abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. Without a positive act on the part of accused to instigate or aid in committing suicide, conviction can not be sustained. The Hon'ble Supreme Court has further held that in order to convict a person under Section 306, there has to be a clear mens-rea to commit offence. It also requires an active act or direct act which leads deceased to commit suicide seeing no option and this act must have been intended to push deceased into such a position that he commits suicide.

10. In the present case, there is no live-link between act of any of the respondents and death of the deceased. Statement of witnesses is based on information given to them by the deceased which may be termed as hearsay evidence.
11. The trial court has elaborately discussed the entire evidence and recorded finding of acquittal. After reassessing the same, this Court has no reason to substitute contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
12. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge