

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 296 of 2018**

State of Chhattisgarh, Through: Station House Officer, Police Station- Kasdol, District- Baloda Bazar-Bhatapara (C.G.)

**---- Petitioner**

**Versus**

1. Mahendra Kumar Kurre, S/o Ghasiram Kurre, Aged About 22 Years.
2. Ramhala Bai, W/o Ghasiram Kurre, Aged About 70 Years.
3. Ajay Kumar Ratre, S/o Reshamlal Ratre, Aged About 20 Years.

Respondents No. 1 to 3 all are R/o Village- Dhandhani, Out Post- Nawan, Police Station- Kasdol, District- Baloda Bazar-Bhatapara (C.G.)

**---- Respondents**

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For State/ Petitioner : Mr. Dinesh Tiwari, Dy. Govt. Adv.

For Respondents : None.  
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**Hon'ble Shri Justice Ram Prasanna Sharma**

**Order On Board**

**10/02/2020**

1. Heard on application for grant of leave to appeal filed under Section 378 (3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against judgment dated 26.10.2017 passed by Special Judge (F.T.C.), Balodabazar (C.G.) in Session Trial No. 48/2015, wherein the said court acquitted all the respondents for charge under Section 306 of IPC.
3. In the present case, date of incident is 19.04.2014. As per version of the prosecution, deceased namely Priya Kurre was married with respondent No. 1- Mahendra Kumar in the year 2002. After sometime, respondent No. 1- Mahendra Kumar left to Korba from Village- Dhandhani and the deceased was

left in the house with her mother namely Ramhala Bai-respondent No. 2. Before three months of the date of incident, the deceased left to the house of Mahendra Kumar and Ramhala Bai and staying with respondent No. 3- Ajay Kumar Ratre as his wife. The case of the prosecution is based on dying declaration in which it is mentioned that since respondent No. 1- Mahendra Kumar did not allow stay of the deceased in his house that is why she poured kerosene on her body and set ablaze herself.

4. From the total evidence, it is clear that the deceased was not living with respondents Mahendra Kumar & Ramhala Bai since three months of the date of incident, therefore, there is no live link between act of these respondents and death of the deceased. Though, the deceased was staying with respondent No. 3- Ajay Kumar Ratre at the time of incident, but she did not make any declaration against him in the said dying declaration.
5. 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.

6. 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.
7. In the present case, there is nothing on record to say that the deceased was living with respondents- Mahendra Kumar and Ramahala Bai, therefore, both the respondents had no occasion to harass her or create any situation for her to end her life. Again, there is nothing on record which can connect respondent No. 3- Ajay Kumar Ratre with crime in question.
8. The trial court elaborately discussed the entire evidence and recorded finding of acquittal. The finding recorded by the trial court is one of the plausible view and it is settled law that if two views are possible, the view which is favourable to the accused/respondent, should be accepted. After reassessing the entire evidence, this Court has no reason to interfere with the

said order. 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.

9. Consequently, the petition stands dismissed at motion stage itself.

**Sd/-**  
**(Ram Prasanna Sharma)**  
Judge

Arun