

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Misc. Petition No.575 of 2020**

State of Chhattisgarh, Through Its Station House Officer,  
Police Station Gaindatola, District Rajnandgaon (CG)

---- Petitioner

**Versus**

Amesh Kanwar, S/o. Mansharam Kanwar, Aged about 38  
years, R/o. Village Metepar, Police Station Gaindatola,  
District Rajnandgaon (CG)

---- Respondent

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For the Petitioner/State : Shri Afroj Khan, Panel Lawyer  
For the Respondent : --  
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**Hon'ble Shri Justice Ram Prasanna Sharma****Order On Board****05.3.2020**

1. Heard on IA No.01/2020 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 84 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 17.6.2019 passed by Sessions Judge,

Rajnandgaon (CG) in Session Trial No.08/2017, wherein the said Court acquitted the respondent for charge under Section 306 of the Indian Penal Code, 1860.

5. In the present case the respondent was charge sheeted on the ground that he made physical relation with one Bhagvantin Bai on the promise of marriage and thereafter refused to marry her that is why she committed suicide by consuming poisonous substance.

6. To substantiate the charge, the prosecution has examined as many as 18 witnesses. From the entire evidence on record, it is established that the respondent and the victim were in love affair and maintained physical relation. Though it is said that the respondent promised to marry her, but he diverted from his promise. The deceased got conceived from the respondent and thereafter her pregnancy was terminated.

7. After assessing the entire evidence, the trial Court recorded that it is not clear as to what really happened on the date of incident or prior to the date of incident which compelled the deceased to end her life. There is no connecting piece of evidence regarding death of the deceased and the act of the respondent.

8. To substantiate the charge under Section 306 IPC, 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.

9. As has been held by **Hon'ble the Supreme Court in 2010 (1) SCC 750 – Gangula Mohan Reddy Vs. State of Andhra Pradesh** 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 U/s.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. For establishing charges under Section 306 IPC there should be live link between the act of the respondent with the suicide that there was no option for the deceased but to end her life due to the act of the respondent but in the present case there is nothing on record as to what really happened on the date of incident or prior to the date of incident. Therefore, the trial Court recorded that there is no live link between the act of the respondent and the death of the deceased.

11. The view taken by the trial Court is one of the plausible view. It is settled law that if two views are possible, the view which is favourable to the accused/respondent should be accepted. In view of the above, 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 the respondent should be called for full consideration of the case.

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

**Sd/-**

**(Ram Prasanna Sharma)**  
**JUDGE**