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HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.577 of 2020**

State of Chhattisgarh, Through the Police Station Rajim,
district Gariyaband (CG)

---- Petitioner

Versus

Angad Dhruw S/o. Kewal Ram Dhruw, Aged about 24
years, R/o. Village Kirwai, Police Station Rajim, District
Gariyaband (CG)

---- Respondent

For the Petitioner/State : Smt. Smita Jha, Panel Lawyer
For the Respondent : --

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 40 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 30.9.2019 passed by Additional Sessions Judge,

Gariyaband (CG) in Session Trial No.02/2017, wherein the said Court acquitted the respondent for charge under Section 306 of the Indian Penal Code, 1860.

5. In the present case, name of the deceased is Angeshwari Dhruv, who was wife of the respondent. She committed suicide on 10.10.2016 by consuming poisonous substance.

6. To substantiate the charge, the prosecution has examined as many as 13 witnesses. From the entire evidence on record, it is not clear as to what really happened with the deceased on the date of incident or prior to the date of incident.

7. 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.

8. As has been held by Hon'ble the Supreme Court in 2010 (1)

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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.

9. For establishing charges under Section 306 IPC there should be live link between the act of the respondent and the death of the deceased that there was no option for the deceased but to end her life due to the act of the respondent. In the present case, no connecting piece of evidence is adduced by the prosecution that for any specific act of the respondent the deceased ended her life.

10. The trial Court elaborately discussed the entire evidence and recorded finding of acquittal. After going through the entire record, this Court is of the view that 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.

11. Accordingly, the application for leave to appeal is rejected.

Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE

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