

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.1077 of 2002

Judgment Reserved on : 11.12.2019

Judgment Delivered on : 9.3.2020

- 1. Leela Ram, son of Jhuragu, aged about 76 years – **Died, his appeal has been abated vide order dated 27.9.2018**
- 2. Venkateshwar @ Beniram, son of Sumiran Singh, aged about 42 years,
- 3. Ganga Ram, son of Baliram, aged about 54 years,
All residents of Junwani, Police Chowki, Bhakhara, Police Station Kurud, District Dhamtari, Chhattisgarh

---- Appellants

versus

State of Chhattisgarh through District Magistrate, Dhamtari, District Dhamtari, Chhattisgarh

--- Respondent

For Appellants	:	Shri Vivek Tripathi, Advocate
For Respondent	:	Ms. Seema Dixit, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. JUDGMENT

- 1. The instant appeal has been preferred against the judgment dated 8.10.2002 passed by the Additional Judge to the Court of Additional Sessions Judge, Dhamtari, Sessions Division Raipur in Sessions Trial No.105 of 2002, whereby each of the Appellants has been convicted and sentenced as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 306 of the Indian Penal Code	Rigorous Imprisonment for 7 years and fine of Rs.1,000/- with default stipulation

2. During pendency of the instant appeal, Appellant No.1 Leela Ram died and, therefore, his appeal has been abated vide order dated 27.9.2018.
3. Prosecution case, in brief, is that one Kisun Sahu committed suicide by consuming some poisonous substance on 15.10.2001. Morgue intimation (Ex.P4) was lodged by his brother Patiram (PW4). Post mortem examination over the dead body was conducted by Dr. V.K. Pandey (not examined). His report is Ex.P16 in which he has opined that the death occurred due to consumption of poisonous substance and nature of the death was suicidal. During morgue inquiry, it was found that the deceased had taken one Kuldeep and 3-4 other boys to one *Baiga* (a person who does *jhadphoonk*), namely, Punitram (PW6) for learning *mohni vidya* (magic) of attracting girls from the said *Baiga*. *Baiga* Punitram (PW6) gave some *Bhabhoot* to Kuldeep. After applying the said *Bhabhoot* on his body, Kuldeep suffered acne and pimples on his body. After coming to know this fact from Kuldeep, his father/Appellant No.2 Venkateshwar @ Beniram called a village meeting. Allegedly, in the said meeting, all the accused persons harassed the deceased and directed him to pay Rs.5,000/- as fine. Thereafter, the deceased returned his house and committed suicide by consuming poisonous substance. On the basis of morgue inquiry report, First Information Report (Ex.P8) was registered. Statements of witnesses were recorded under Section 161 of the Code of Criminal Procedure. On completion of the investigation, a charge-sheet was filed against the accused persons. Charges were framed against them.

4. In support of its case, the prosecution examined as many as 8 witnesses. In examination under Section 313 of the Code of Criminal Procedure, the Appellants denied the guilt and pleaded innocence. No witness has been examined in defence.
5. On completion of the trial, vide the impugned judgment, the Trial Court convicted and sentenced the Appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.
6. Learned Counsel appearing for the Appellants submitted that there is nothing on record on the basis of which it could be said that any of the Appellants instigated or abetted the deceased to commit suicide. There is no evidence on record to indicate that the Appellants aided or assisted the deceased to commit suicide. Even if the entire case is taken as it is, the same is not sufficient to hold the Appellants guilty. According to the evidence adduced by the prosecution, in the said village meeting, many villagers were also present, but none of them has been examined by the prosecution. The village meeting was convened by the villagers and in the said meeting queries were put to the deceased by the villagers. During the said meeting, if any query was put to the deceased and thereafter he committed suicide, merely on this ground, it cannot be said that the present Appellants abetted or instigated the deceased to commit suicide. The Trial Court has wrongly convicted the Appellants without there being any evidence on record against them.
7. Learned Counsel appearing for the State/Respondent supported

the impugned judgment of conviction and sentence.

8. I have heard Learned Counsel appearing for the parties and perused the record with due care.
9. It is not in dispute that the deceased committed suicide on the date of incident by consuming some poisonous substance. Regarding the incident, Ghurwabai (PW2), wife of the deceased has deposed that on the date of incident at about 6:30 a.m., Appellant No.2 had taken the deceased along with him. Thereafter, at 12:30 p.m., the deceased returned home. She has further deposed that in between, when she had gone to take bath, at that time, the Appellants were scolding the deceased and the deceased was tendering his apology. According to this witness, at that time, Appellant No.3 was saying to the deceased for getting the son of Appellant No.2 medically treated or else he will sell his land and file a case against the deceased. This witness has further deposed that Appellant No.1 was saying to the deceased that if he will give Rs.5,000/- then only he will be saved. During cross-examination, this witness has deposed that after return to home, the deceased went towards the fencing (*badi*) and thereafter his death took place. The above statement of this witness has not been rebutted during cross-examination.
10. Patiram (PW4), brother of the deceased has deposed that when he was passing through the place where the meeting was going on, at that time, he saw that the Appellants and 10-15 other villagers were present in the said meeting and Appellant No.2 was creating

a pressure over the deceased asking why had he taken his son and he was also abusing the deceased. In paragraph 9 of his cross-examination, this witness has admitted that in the said meeting, apart from the Appellants, villagers Sumran Singh, Rekhranj, Girdhari, Kaleshwar and other persons were also present.

11. Punitram (PW6), so called *Baiga*, to whom, allegedly, the deceased had taken the son of Appellant No.2, has deposed that on the date of incident, the deceased had come to him and said that the Appellants were creating a pressure over him and they had asked him to come in the meeting along with him (this witness). Then he went in the village meeting. According to this witness also, in the said meeting, the Appellants tortured the deceased. But, this witness has not stated that how and in which manner the deceased was tortured by the Appellants. However, during cross-examination, this witness himself has stated that the Appellants had put queries to the deceased creating pressure over him.

12. Budhram (PW7), father of the deceased has deposed that on the date of incident, in the afternoon, at about 12:30 O'clock, he had gone out of his house to go to the field. At that time, the deceased and the Appellants came to him and the deceased told him that the Appellants were demanding a sum of Rs.5,000/- and also told that on not being given the said sum, they have threatened that they will kill him. This witness has further deposed that at that time, the deceased had also told that the Appellants had beaten him severely. But, all these facts are not mentioned in his case diary statement.

13. K.R. Bhoi (PW8) is the Investigating Officer. He investigated the offence in question.
14. On a minute examination of the evidence available on record, it is clear that on the date of incident, at about 12:30 p.m., the deceased committed suicide in his house by consuming poisonous substance. In the *post mortem* examination report (Ex.P16), no bodily injury was found. From the evidence adduced by the prosecution, it is also established that on the date of incident, a village meeting was called and in the said meeting the Appellants and 10-15 other villagers were also present. As stated by the witnesses, in the said meeting, the Appellants had scolded the deceased and as stated by Ghurwabai (PW2), in the said meeting, the deceased was also fined with Rs.5,000/-. According to the Court statement of Patiram (PW4), the Appellants had created a pressure over the deceased and they had also abused him. According to Punitram (PW6), the Appellants had inquired the deceased creating pressure over him. If it is seen collectively, it reveals that in the village meeting, the Appellants had inquired the deceased creating pressure over him and they had also abused him and fined him with Rs.5,000/-. But, only on this ground, it cannot be accepted that the deceased was abetted by the Appellants to commit suicide. The evidence available on record do not reveal in any manner that the Appellants instigated the deceased to commit suicide. The alleged incident relates to a village meeting and if on falling ill of son of one of the villagers/Appellants, the deceased is called in the village meeting and is scolded and fined and thereafter he commits suicide, it cannot be said that the Appellants or other villagers abetted or

instigated the deceased in any manner to commit suicide. Therefore, in my considered view, the offence under Section 306 of the Indian Penal Code is not duly proved.

- 15.** Consequently, the appeal is allowed. The impugned judgment of conviction and sentence is set aside. The Appellants are acquitted of the charge framed against them.
- 16.** Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
JUDGE