

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 276 of 2018

Mahaveer Chandrakar S/o Kapil Chandrakar Aged About 50 Years R/o Village Ranpa, Police Station Kunda Tahsil Pandariya, District Kabirdham (Kawardha) Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Acting Through Officer - In - Charge, Police Station Kunda Tahsil Pandariya, District Kabirdham (Kawardha) Chhattisgarh.

---- Respondent

For Applicant	: Mr. K.A. Ansari, Senior Advocate with Shri Azimuddin, Advocate.
For Respondent/ State	: Shri Sudeep Verma, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

24-02-2020

Heard.

1. This revision petition has been brought challenging the order passed by the Court of Learned Additional Sessions Judge (FTC), Kabirdham (Kawardha) in Sessions Trial No. 35 of 2016. Learned Court below has framed charge against the applicant under Section 306 of the IPC.
2. It is submitted by learned counsel for the applicant that there is no evidence present at all on the basis of which, it can be stated that *prima facie* case is made out under Section 306 of the IPC. Deceased – Usha Chandrakar was wife of the applicant, who was mentally disturbed person which is confirmed from the statement of her own brothers, sister, mother and children. She set herself ablaze on 14.7.2015 after about 18 years of marriage with the applicant. She was admitted in the hospital and died during the course of treatment on 17.7.2015. In the

dying declaration, recorded before her death, she has not stated anything against the applicant to show that the applicant in any manner abetted her death. Therefore, there is no ingredients present under Section 107 of the IPC to make out commission of an offence of abetment to commit suicide. Reliance has been placed on the judgment of the Supreme Court in the case of **Bhagwan Das vs. Kartar Singh and Others** reported in **(2007) 11 SCC 205**, therefore, it is prayed that the impugned order be set aside.

3. Learned State counsel opposes the submissions made in this respect. It is submitted that there is evidence present that the matrimonial relationship of the deceased with the applicant was not going well. The mental condition of the deceased was normally well, and she was only mental incapacitated on occasions. The witnesses have stated about her mental incapacity and about the strained relationship of the applicant with the deceased. The dying declaration of the deceased revealed that the deceased was harassed and frustrated because of the cruel treatment of the applicant and others which has resulted in her death. Therefore, there is sufficient material present to hold the charge against the applicant.
4. Heard counsel for both the parties and perused the documents present on record.
5. No need to discuss that the deceased was married to the applicant since about 18 years before her death and out of this marital relationship, she has one son and two daughters. A few years ago, son of the deceased died due to snake bite. Subsequent to which, the deceased became mentally upset. The daughters of the deceased are grown up.

6. On perusal of the material present in the petition and also in the case-diary, firstly, it was found from the dying declaration that the deceased had clearly stated that she has burnt herself. Secondly, her statement is that soon after the marriage, her husband and others used to call her rascal and snake because of which, she felt harassed. The police has recorded the statement of witnesses under Section 161 of the Cr.P.C.
7. On perusing the statement of the witnesses, namely, Raghuraj, who is the brother of the deceased has expressed his doubt upon the applicant. The other witnesses, namely, Revaram and Rajni Bai are the parents of the deceased, Siyaram, the uncle of the deceased, Ramesh Kumar Chandrakar, Dinesh, Basant Das, Kumari Dakeshwari, who is daughter of the deceased, have not stated about any specific act of the applicant to show that he has abetted the deceased in setting herself ablaze.
8. There is a statement of the witnesses that the deceased suffered occasional bouts of mental unsoundness and also that she was very much upset for the death of her son which were the causes of her grievance. What has been stated that she was called as rascal and snake by the applicant and others, has not been stated by any of the witnesses in their statements. It may be so that the deceased was frustrated and aggrieved because of the reasons present which are mentioned herein-above and her matrimonial relationship with the applicant was also not very much harmonious. The deceased and others may hold the applicant responsible for the suicidal death but holding any person responsible for any incident is a different thing and the abetment for commission of an offence is another thing.
9. Section 107 of the IPC very clearly defines what shall be the abetment. The abetment is direct instigation, by conspiracy or by direct aid to the

act of the offence which is being conducted by a person.

10. On perusal of the evidence present in the case-diary and also the charge-sheet that is present in the record of the Courts below, I am of this view that there is no such evidence at all, therefore, the conclusion drawn by the trial Court that *prima facie* case made by the applicant under Section 306 of the IPC is totally erroneous and without the support of evidence. Hence, this revision petition deserves to be allowed which is allowed at motion stage. The impugned order is set aside and the applicant now stands discharged.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi