

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 649 of 2020

State of Chhattisgarh, Through the Incharge, Police Station-
Dongargarh, District- Rajnandgaon (C.G.)

---- Petitioner

Versus

1. Purushottam Sahu, S/o Siyaram Sahu, Aged About 25 Years,
R/o Village Jamri, Police Station- Dongargarh, District-
Rajnandgaon (C.G.)
2. Siyaram Sahu, S/o Jaitram Sahu, Aged About 50 Years, R/o
Village Jamri, Police Station- Dongargarh, District-
Rajnandgaon (C.G.)

---- Respondents

For State/ Petitioner : Mrs. Shubha Shrivastava, PL.
For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

13/03/2020

1. Heard on I.A. No. 01/2020, application for condonation of
delay in filing the petition.
2. For the reasons mentioned in the application and as per the
law laid down by Hon'ble the Apex Court in the matter of **State
of Haryana Vs. Chandra Mani & others** reported in **(1996) 3
SCC 132**, the delay of 65 days in filing the petition is
condoned.
3. Also heard on application for grant of leave to appeal filed
under Section 378 (3) of the Code of Criminal Procedure,
1973.

4. This petition is preferred against judgment dated 30.09.2019 passed by the Court of Additional Session Judge, Dongargarh, District- Rajnandgaon (C.G.) in Session Trial No. 05/2019, wherein the said court acquitted the respondents for charge under Section 306/34 of IPC, 1860 for commission of abetment of suicide to deceased namely Jaishree Bai Sahu who was wife of respondent No. 1- Purushottam Sahu and daughter-in-law of respondent No. 2- Siyaram Sahu who committed suicide by setting herself ablaze on 11.01.2019 at Village- Jamri.
5. To substantiate the charge, the prosecution examined as many as 11 witnesses. Bhikhari Ram Sahu (PW-2) is father of the deceased. Ghasin Bai Sahu (PW-3) is mother of the deceased. Bhuneshwari Sahu (PW-4) is sister of the deceased. Sanjay Sahu (PW-5) is cousin of the deceased. Sohadra Bai (PW-6) is sister of the deceased. All these witnesses have deposed before the trial court that respondent No. 1- Purushottam Sahu had not maintained cordial relation with the deceased and scolded her for many times. All these witnesses are not resident of Village- Jamri where the incident took place. All these witnesses are resident of different locality and they had no occasion to assess what is really going on with the deceased.
6. The statement made by all the witnesses is bald and general in nature and from their statement, it is not clear as to what really happened with the deceased on the date of incident or

prior to the date of incident which was sarcastic for her and because of act of any of the respondent, she took extreme step to end her life.

7. 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.

8. 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.

9. For commission of offence under Section 306 of IPC, there should be live-link between act of any of the respondent and death of the deceased. There should be evidence that the deceased had no option but to end her life because of constant cruelty on part of the respondents, but the same is not established by cogent and clinching evidence. The evidence adduced by the prosecution is not incriminating against any of the respondent.
10. The trial court elaborately discussed the entire evidence and recorded finding of acquittal. After going through the record, it is not a case where any interference is required with the judgment of the trial court. It is also 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.
11. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge