

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1688 of 2018

State of Chhattisgarh through The Police Station Kumhari District
Durg Chhattisgarh. **---- Petitioner**

Versus

Prashant Soni S/o Ramkumar Soni Aged About 21 Years R/o Ward
No. 5, Prabhat Chowk, Kumhari, Police Station Kumhari District
Durg Chhattisgarh. **---- Respondent**

For State/petitioner : Mrs. Shubha Shrivastava, P.I.

For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

18.02.2020

1. Heard on I.A. No.1/2018, which is an application for condonation of delay in filing the instant petition.
2. On due consideration, the application is allowed and the delay of 94 days in filing the instant petition is hereby condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of Cr.P.C.
4. This petition is preferred against the judgment dated 25.01.2018, passed by learned Special Judge, Scheduled castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Amendment Act, 2015, Durg (C.G.), in Special Case No. 28/2016 wherein the said Court has acquitted the respondent for commission of offence under Section 306 of Indian Penal Code, 1860 and Section 3(2) (v ऋ) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
5. In the present case, name of the deceased is Nutan Joshi, who committed suicide on 3rd of October, 2016. It is alleged

that respondent had maintained physical relation with the deceased because they were in love affair and when the deceased asked the respondent to marry with her, the respondent refused to marry with her. Thereafter, she consumed poisonous substance on 17th of September, 2016 and after medical treatment she got cured but on 3rd of October, 2016 she committed suicide by hanging herself. From the evidence of the record, the facts emerged that there was love affair between the respondent and the deceased. The deceased was refused to marry by the respondent. It is on record that deceased consumed poisonous substance on 7th of September, 2016 and after treatment she got cured but later on she committed suicide on 3rd of October, 2016.

6. For establishing the charge under Section 306 of IPC, the ingredient of Section 107 of IPC has to be established which may be mentioned 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 instigates any person to do so with any other means of abatement besides instigating are conspiracy and intentionally aid the commission and it is sometime more than co-operation.

7. Marriage is absolutely discretion of an individual, no one can be compelled to marry with any particular person. In the

present case, it is stated by the witness that respondent refused to marry with the deceased that is why she committed suicide but the fact remains that refusal of the marriage cannot be equated with abatement, instigation or intentional adding conspiracy for suicide. Therefore, the appellant cannot be convicted on the ground that he refused to marry with the deceased.

8. The trial Court elaborately discussed the entire evidence and in view of the legal position, 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 respondent should be called for hearing again for full consideration of this petition.
9. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge