

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1847 of 2019

State of Chhattisgarh Through The Police Station Palari, District-Balodabazar-Bhatapara, Chhattisgarh. **---- Petitioner**

Versus

Narendra Gendre S/o Rekhchand Gendre Aged About 29 years R/o Village Bijridih, P.O. Gidhpuri, Police Station Palari, District-Balodabazar-Bhatapara, Chhattisgarh. **---- Respondent**

For State/petitioner : Mr. D.K. Tiwari, Dy. G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

09.03.2020

1. Heard on I.A. No.1/2019, which is an application for condonation of delay in filing the instant 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 07 days in filing the petition is condoned.
3. 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 09.04.2019 passed by learned Second Additional Sessions Judge, Balodabazar (C.G.) in Sessions Case No.63/2018 wherein the said Court has acquitted the respondent for commission of offence under Sections 306 of Indian Penal Code, 1860 for abetment of suicide of his wife namely Malti Bai who committed suicide by hanging herself on 3rd of June, 2018 at village Bijridih.

5. To substantiate the charge, prosecution examined as many as 10 witnesses. Smt. Leela Bai Jangde (PW-2) is mother of the deceased. As per version of this witness the respondent informed her that deceased is weeping for some reason, when she asked the respondent for making conversation with her the deceased refused to had conversation. From the evidence of this witness, it is not clear as to what really happened on the date of the incident or prior to the date of the incident which was sarcastic for the deceased and same was due to any kind of harassment on the part of the respondent. This witness deposed that respondent used to have quarrel with the deceased but her version is bald and general in nature. From her statement, it is not clear on what date any quarrel was taken place and what is the time lapse since the said quarrel and date of incident. Ishwari Bai (PW-3) is sister of the deceased. This witness has not supported the version of the prosecution and as per version of this witness the respondent had cordial relation with the deceased. Though, he deposed before the trial Court that on telephonic conversation the deceased informed him that respondent pressed her neck but she is not able to tell on what date such conversation was made by the deceased therefore, conversation of this witness is not connecting piece of evidence against the respondent in crime in question. Mr. Rekhchand Gendre (PW-4) deposed that deceased was suffering from disease of sickle cell and jaundice and that is why she was under depression. Meena Gendre (PW-5) deposed on same line.

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.
7. 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. For commission of offence under Section 306 of IPC there should be live link with the act of the respondent and death of the deceased but same is lacking in the present case.
9. The trial Court after evaluating the entire evidence recorded finding that charge leveled against the respondent is not established. After going through the records 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.
10. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
 Judge