

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1207 of 2019

1. Raju @ Raja Malha S/o Katku Malha, Aged About 36 Years, R/o Paithupara, Kawardha, Police Station Kawardha, District Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh
2. Smt. Aruna Malha W/o Raju Malha, Aged About 35 Years, R/o Paithupara, Kawardha, Police Station Kawardha, District Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Bhoramdev, District Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

--- Non-applicant/Respondent

For Applicants – Shri Dharmesh Srivastava, Advocate.

For State/Respondent – Shri D.P. Singh, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

02-03-2020

Heard.

1. This revision petition has been brought being aggrieved by the order dated 06-09-2019 by which the Court of Additional Sessions Judge Kabirdham has framed the charge against the applicants under Section 306/34 of the IPC in S.T. No.35/2019.
2. Deceased Shyamlal Verma committed suicide on 11-05-2018 by hanging himself. The inquest was conducted and thereafter the FIR was lodged. On completion of the investigation charge sheet has been filed. On the basis of the material present in the charge sheet the learned trial Court has framed the charge against the applicants.
3. It is submitted by learned counsel for the applicants that there is no evidence at all against the applicants to frame charge for offence of abetment to commit suicide. The facts of the case are these, that the deceased Shyamlal Verma had borrowed some money from applicant No.2 and he had not repaid the same. The applicants had been insisting and making demand from the

deceased to repay the same. In the meanwhile, this incident occurred in which the deceased committed suicide. The suicide note left by the deceased also discloses name of these applicants, but does not mention about any reason. The statements of the witnesses that have been recorded, narrate the transaction of the loan between the applicants side and the deceased and also that the applicants were pressurizing for repayment of the loan. Applicant No.1 had been rightful in making demand for repayment of the loan amount advanced to the deceased. A criminal complaint was also filed against the deceased by the applicants. The trial Court had taken cognizance in the complaint case and issued summons against the deceased, but he did not appear and then a bailable warrant was issued against him. It was at that occasion the deceased committed suicide. There is nothing to suggest that the applicants have committed any of the act which is defined under Section 107 of the IPC so as to hold that they have abetted commission of suicide by the deceased. Therefore, it is prayed that the impugned order suffers from grave infirmity, which is liable to be set aside.

4. Learned counsel for the State/non-applicant opposes the submission made by learned counsel for the applicants and submits that prima facie case is made out against the applicants for framing of charge under Section 306 of the IPC. The applicants had deliberately created circumstance to which the deceased succumbed and committed suicide. Therefore, it is not a case of discharge.

5. Heard learned counsel for the parties and perused the documents.

6. Perused the copy of the complete charge sheet which is filed along with this petition. The suicide note mentions that the deceased had held the applicants responsible for his suicide. There are no other details given in that suicide note. The statement of the witnesses that have been recorded under Section 161 of the Cr.P.C., namely, Ashok Chandravanshi, Amit Sharma,

Videsh Sahu, Netram Verma, Vijay Verma, Bhagwani Ram Verm, Dhaniram Yadav, Smt. Kachara Bai and Suklal Singh Markam narrate about the transaction of the applicants with the deceased regarding the loan advances by them and also the demand made by the applicants which the deceased could not meet because of his present economic crisis. It has been stated by the witnesses that applicant No.1 used to threaten the deceased that in case he does not repay the money then a case will be filed against him in court and also there is allegation that applicant No.2 used to threaten the deceased that she will implicate him in a false case of rape.

7. On perusal of all the evidence present in the charge sheet against the applicants, I am of this view that the necessary ingredients for abetment which have been defined under Section 107 of the IPC are totally absent. There is no evidence of any direct instigation, any conspiracy or of any aid given in commission for suicide by the deceased. Therefore, there had been no prima facie case for framing of charge against the applicants under Section 306/34 of the IPC. Hence, this revision petition is allowed. The applicants are discharged from the offence under Section 306/34 of the IPC. However, the case is remanded back to the trial Court to consider on remaining evidence present to find out that the case of prosecution can be continued or not.

8. The petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge