

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 2476 of 2019

- State of Chhattisgarh, through- Police Station- G.R.P. Charoda,
District- Durg Chhattisgarh. ----- **Petitioner**

Versus

- Vivek Kumar, S/o Ramesh Kumar Sharma, Aged about 27 years,
R/o C-Market, Shop No. 162, Sector 6, Bhilai Nagar, District-
Durg Chhattisgarh. ----- **Respondent**

For State/Petitioner : Shri Afroj Khan, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board18/02/2020

1. Heard on I.A. No. 01/2019, which is an application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, delay of 01 days in filing the instant 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 the judgment dated 18th July, 2019 passed by 1st Additional Judge to the Court of 1st Additional Sessions Judge, Durg (C.G.) in Sessions Trial No. 166/2018 wherein the said Court acquitted the respondent for charge under Section 306 of the Indian Penal Code (for short "the IPC"), 1860.

5. To substantiate the charge, the prosecution examined father, brother and sister of the deceased. All these witnesses have deposed before the trial Court that the deceased married with the respondent without their consent that is why they did not attend the marriage ceremony.
6. Father of the deceased deposed before the trial Court that he is not in a position to state about working of the respondent and his family members. From the statement of these witnesses, it is established that they did not collect any information regarding the deceased after her marriage. The only thing which is brought on record that the respondent was not maintaining conversation with the deceased, but the fact remains that non-conversation is not equivalent to the abatement for commission of the offence.
7. For commission of offence under Section 306 of IPC ingredients mentioned in 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 offences.
8. There should be live-link between act of the respondent and death of the deceased. No evidence of physical violence is adduced before the trial Court and from the evidence there is nothing on record regarding mental torture.
9. The trial Court after evaluating the entire evidence recorded finding of acquittal. After going through the record, it is not a case

where interference of this Court is required in the judgment of the trial Court. It is not a case where the respondent should be called for full consideration of this petition.

10. Accordingly, the application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

**(Ram Prasanna Sharma)
Judge**

Vasant