

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2603 of 2019

State of Chhattisgarh Through - Its Station House Officer, Police
Station Bemetara, District - Bemetara Chhattisgarh. ---- **Petitioner**

Versus

Tikeshwar S/o Nand Kumar Verma Aged About 22 Years R/o Village
Rajkudi, Police Station Bemetara, District - Bemetara Chhattisgarh.

---- **Respondent**

For State/petitioner : Mr. Afroj Khan, P.L.

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 51 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 20.06.2019 passed by learned Sessions Judge, Bemetara (C.G.) in Sessions Case No. 12/2019 wherein the said Court has acquitted the respondent for commission of offence under Section 306 of the Indian Penal Code, 1860.
5. In the present case, name of the deceased is Seema Verma who had marriage with the respondent in the year of 2013. She died on 3rd of January, 2019 at village Rajkudi, by hanging herself.

6. To substantiate the charge, the prosecution has examined as many as 5 witnesses. Nandkumar Verma (PW-1) is father of the deceased. This witness is resident of village Jeeya, while the incident took place at village Rajkudi. This witness has deposed on the basis of information given to him by the deceased. This witness deposed as per information received from the deceased that respondent was having extra marital affair relation and that is why quarrel took place between the deceased and the respondent. Naresh Kumar (PW-2) is brother of the deceased, (PW-3) mother of the deceased deposed on same line. All these witnesses are resident of village Jeeya who had no occasion to assess what is really going on village Rajkudi. The statement is based on information received by the deceased. But same is not substantiated by any of the person of village Rajkudi who had knowledge about the routine relation between the deceased and the respondent.

7. 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.

8. 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.

9. 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. It should be proved by the prosecution that there was no option left for the deceased to end her life. The statement recorded before the trial Court was hear-say in nature.
10. View taken by the said Court is one of the plausible view It is settled law that if two views are possible, the view which is favourable to the respondent/ accused, should be accepted. There is nothing on record to convert order of acquittal into conviction.
11. 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.
12. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge