

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 164 of 2020

State of Chhattisgarh Through The Incharge, Police Station
Kotwali, District Rajnandgaon Chhattisgarh. ---- **Petitioner**

Versus

1. Shailesh Singh S/o Ram Vinod (Rp) Singh Aged About 30 Years R/o Hig 3/12 Jawahar Nagar, Bhilai, Police Station Jamul, District Durg, Chhattisgarh. (Wrongly Mentioned As Rajnandgaon).
2. Rajkishor Singh S/o K.N. Singh Aged About 37 Years R/o Navdurga Nagar, Santoshi Nagar Ward, Police Station Tikrapara, District Raipur Chhattisgarh. ---- **Respondents**

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

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

16.03.2020

1. Heard on I.A. No.1/2020, 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 121 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 10.05.2019 passed by learned Additional Sessions Judge(F.T.C.), Rajnandgaon (C.G.) in Sessions Case No. 67/2013 wherein the said Court has acquitted the respondents for commission of offence under Section 306 of the Indian Penal Code, 1860.

5. In the present case, name of the deceased is Manju @ Manjusha who committed suicide on 29th of November, 2012 in the night at about 00.45 hrs. by consuming poisonous substance. The deceased was living with respondent Shailesh Singh as wife in a rental house though she was not married with the said respondent. It is alleged that respondent No.2 Rajkishore asked the deceased that Shailesh Singh will marry with some other girl that is why the deceased committed suicide.
6. To substantiate the charge, the prosecution examined as many as 23 witnesses. From the entire evidence on record and from suicide note, the facts emerged that respondent Shailesh Singh was inclined to marry with some other girl that is why the deceased committed suicide. Admittedly, deceased was not married wife of respondent No.1 Shailesh Singh though she was living with him which is called live in relationship. From the evidence, it is clear that respondent Shailesh Singh was not married person therefore, he was free to marry with a girl of his choice. Intention of the respondents to that effect is not equivalent to abetment of suicide.
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 of acquittal that charge leveled against the respondents is not established. After going through the records it is not a case where trial Court recorded finding on the basis of any extraneous material and order passed by the trial Court cannot be termed as perverse when finding of the trial Court is based on relevant material placed on record. Thus, 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

N.Mohle