

**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P No.355 of 2018**

State Of Chhattisgarh Through Police Station Badanji, District Bastar  
Chhattisgarh ----- **Petitioner**

**Versus**

Kishore Kashyap S/o Gandhiram @ Shamuram Kashyap Aged About 21  
Years Occupation Agriculture, R/o Michnar Kukan Para Police Station  
Lohandiguda, District Bastar Chhattisgarh  
-----**Respondent**

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For Petitioner/State: Shri BP Banjare, Deputy Advocate General.

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**Single Bench: Hon'ble Shri Deepak Kumar Tiwari J**  
**Order On Board**

**16.12.2021**

1. This is an application for grant of leave to Appeal under Section 378(1) Cr.P.C challenging the judgment of acquittal dated 17.11.2017 by the Court of Sessions Judge, Bastar at Jagdalpur in Sessions Trial No.42/2017, whereby the accused/Respondent was acquitted from the offence punishable under Section 306 IPC.
2. Case of the prosecution in brief is that there was a love affair between the deceased Smt Chintamani and accused/Respondent and they have performed marriage with the permission of their parents for which, a social meeting was organized wherein, the family member of the accused/Respondent has been penalized for more than Rs.30,000/-. After three weeks, the accused/Respondent went to Bangalore for earning his livelihood and the deceased started living with her in-laws. In the month of

November, the deceased came back to her maternal home and after staying there for two weeks, on 24.11.2016, after talking to the accused/Respondent in mobile phone, she set herself on fire by pouring kerosene oil over her body. The deceased was admitted at Maharani Hospital, Jagdalpur in burnt condition on 24.11.2016. The deceased stated in her dying declaration that when she made phone calls on 24.11.2016, the accused/Respondent refused to keep her with him and said that he will remarry and also abused her in filthy language due to which, she committed suicide. The deceased died during treatment on 02.12.2016.

3. After completing the investigation, charge sheet was filed. The accused/Respondent denied the charges leveled against him and has stated in his statement that he has been falsely implicated in the case and no witness was examined in his defence.

4. In order to prove its case, the prosecution has examined as many as 10 witnesses.

5. After completion of trial, the accused/Respondent was acquitted from the charge alleged.

6. Learned Counsel for the State/Petitioner submits that the finding recorded by the trial Court is unjust and perverse and the said Court has not properly appreciated the evidence, therefore, it is prayed to grant leave to Appeal.

7. I have heard learned Counsel for the parties and perused the statements and prosecution witnesses as also the record minutely.

8. The case is based on the dying declaration of the deceased, which was recorded by Anand Ram Netam (PW-12), Tahsildar.

9. On 24.11.2016, at Maharani Hospital, Jagdalpur vide Ex.P-12 the deceased has stated that the accused denied to keep her with him and told

that he will remarry and also abused her in filthy language. Therefore, she committed suicide after pouring kerosene oil and set herself on fire at her maternal home. The Supreme Court in several decisions, after considering the aspect of abetment, established that a word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged for abetting the offence of suicide should be found guilty.

10. In the matter of Mahendra Singh and Another vs. State of M.P. reported in **1995 Supp (3) SCC 731**, the husband wants to marry for the second time and also had illicit connection with the sister-in-law of the deceased due to which, the deceased committed suicide and it was held that abetment was not established.

11. Section 107 IPC defines Abetment of a thing as a person abets the doing of a thing if he firstly instigates any person to do that thing; or secondly, engages with one more more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing.

12. In the present case, looking to the evidence, no such ingredients of abetment are found, therefore, the trial Court, after discussing the evidence at length, properly appreciated and arrived at a right conclusion that the

accused/Respondent has not committed any offence and in the said facts and circumstances of the case, this Court does not find any error in the said view and the deceased herself alone is responsible for her death. Therefore, the judgment of acquittal is affirmed.

13. Resultantly, the instant Petition, being devoid of any substance, is liable to be and is hereby dismissed.

Sd/-

(Deepak Kumar Tiwari)  
**JUDGE**

Priya