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HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1035 of 2001**

Ramesh Kumar Rathore S/o Babulal Rathore, aged about 19 years R/o Village Gataura, P.S. Masturi, Tehsil & Distt. Bilaspur (C.G.).

----Appellant**Versus**

State of Chhattisgarh, through The S.H.O., P.S. Masturi, Distt. Bilaspur (C.G.)

---- Respondent

For Appellant	:	Dr. Shailesh Ahuja, Advocate
For Respondent	:	Mrs. Dipti Shukla, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****08/03/2021**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 22/10/2001 passed in Sessions Trial No. 264/2000 by the Fourth Additional Sessions Judge, Bilaspur (C.G.), whereby the Appellant has been convicted under Section 306 of the IPC and sentenced to undergo RI for 10 years with fine of Rs. 1000/-, with default stipulations.
2. In this case the name of the Deceased is Tripti who was a bachelor girl. According to the case of the prosecution, there was love relationship going on between the Deceased and the appellant. Since father of the Deceased refused to marriage of the Deceased with the appellant and searching a boy for Deceased, therefore, it is alleged that the appellant gave a box of poison (pesticide) and asked the Deceased to consumed the same. Later on, the Deceased consumed the said poison and died. Merg report was lodged vide Ex.P-9 by the father of the Deceased.

Inquest proceeding was conducted vide Ex.P-7. The postmortem of the body was also conducted by Dr. Hemant Dixit (PW11). The postmortem report is Ex.P-8. On the basis of merged inquiry report, an FIR was registered. Statements of witnesses were recorded under Section 161 of the Cr.P.C. After investigation, a charge-sheet was filed. Trial Court framed the charges under Section 302 of the IPC. As many as 12 prosecution witnesses have been examined. Statement of the Appellant under Section 313 of the Cr.P.C was recorded, wherein he has pleaded his innocence and false implication in the matter. No defence witness has been examined.

3. After trial, the trial Court has acquitted the appellant from the charge framed under Section 302 of the IPC, however, he has been convicted and sentenced as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that the trial Court has wrongly convicted the appellant without there being sufficient and clinching evidence. He further submits that there is no evidence available on record on the basis of which it can be said that the appellant by any manner instigated or abetted the Deceased for committing suicide. There is no evidence available on record which shows that there was love relationship between both of them. There is no material on record which shows that the appellant gave a box of pesticide to the Deceased and asked her to consume the same, therefore, he submits that the conviction of the appellant is not sustainable.
5. Per contra, learned Counsel appearing for the State supported the

impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.

6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Ramayan Prashad (PW1) father of the Deceased has deposed that on the date of incident, he had gone to village Shivni for the purpose of marriage of her girl. At about 8:00 pm, he returned and saw that the Deceased had consumed some poisonous substance and was lying on the surface in dying condition. This witness has further deposed that on the next day after cremation, when he reached to the house, his sons Jaykant and Vidhyakant was weeping and Jaykant told him that on the date of incident, the appellant came at their shot at round 10:00 am and gave a small box of oil to the Deceased. This witness further deposed that Vidhyakant had also told him that at that time the appellant was carrying a box of Democron in his hand. This witness has admitted that he is having a shop of grocery on which the Deceased used to sit.
8. Jaykant (PW3) brother of the Deceased is a child witness. He has deposed that on the date of incident at about 12:00-1:00 in the afternoon, the appellant came to their shop and gave a small box to the appellant. When this witness asked the Deceased that what is in the box, then the Deceased told him that there is some hair oil inside the box. After some time, he returned and saw that the Deceased was lying in unconscious condition on the surface.
9. Devkant (PW6) has deposed that on the date of incident at about 12-01 in the afternoon, the appellant to came to his house and told that the

Deceased had consumed some poisonous substance and he asked to save her. This witness has also told him that the Appellant had told him that he had given some poisonous substance to the Deceased which she had consumed. After reaching the house, this witness saw that the Deceased was lying in unconscious condition. In paras 5 and 6 of cross-examination of this witness, this witness has admitted that he had never told to the father of the Deceased that the appellant had given the poisonous to the Deceased. Even at the time of inquest, he did not disclose this fact. He further admitted that after cremation also, he did not disclose this fact to anyone.

10. Vidhyakant (PW10), another brother of Deceased has deposed that on the date of incident at about 12:00 in the noon, the appellant came to his shop and was carrying a plastic box. This witness further deposed that 'D' was written on the said box. When he asked the appellant about the box, then the appellant scolded him and then this witness fled away. At around 1:30 -2:00 pm, the appellant was crying that the Deceased has consumed poisonous substance, but this fact is not mentioned in his diary statement (Ex.D-4).
11. Dr. Hemant Dixit (PW11) conducted the postmortem of body of the Deceased. His report is Ex.P-8. According to this witness, the Deceased might have died due to some poisonous substance, therefore, for confirmation he had preserved viscera of the Deceased and opined for further medical examination.
12. C.P.S. Paikra (PW12), Assistant Sub Inspector has admitted the fact that during investigation, as alleged no Democron box was found, therefore,

he did not seize the same.

13. On minute examination of the above evidence, it makes clear that the Deceased had died by consuming some poisonous substance, but no FSL report is submitted by the prosecution that the said poisonous substance is pesticide Democron. For the shake of argument, if it is admitted that the Deceased had died by consuming Democron pesticide, yet there is nothing on record which shows that such type of pesticide box was given by the appellant and the appellant told the Deceased to consume the same. Therefore, in this case material ingredients for the offence punishable under Section 306 of the IPC i.e. instigation and abetment to commit suicide is totally missing. Thus, the conviction imposed by the trial Court is not in accordance with the evidence available on record and the same is not sustainable.
14. In the result, the appeal is allowed. The appellant is acquitted from the charge framed under Section 306 of the IPC.
15. It is reported that the appellant is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of six months in light of Section 437-A of the Cr.P.C.
16. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge