

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRR No. 367 of 2014**

**Judgment reserved on 26.03.2021**

**Judgment delivered on 09.07.2021**

Bhupendra Potai @ Pappu, aged about 20 years, S/o. Madan Singh Potai, R/o. Village Alvar Khurd, Thana Bhanupratappur, District U.B. Kanker.

**---- Applicant**

**Versus**

State of Chhattisgarh through D.J. U.B. Kanker.

**---- Respondent**

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| For Applicant  | - | Shri Parag Kotecha, Advocate |
| For Respondent | - | Shri Sameer Sharma, Dy. GA   |

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**Hon'ble (Smt.) Justice Vimla Singh Kapoor**

**CAV Order**

The instant Criminal Revision under Section 397 read with 401 of the Code of Criminal Procedure has been preferred by the applicant against the charge framed by the Additional Sessions Judge (FTC) Uttar Bastar, Kanker against him on 26.02.2014 under Section 306 IPC.

2. It is alleged that in the intervening night of 22.12.2013/23.12.2013 deceased Harita Uikey committed suicide by hanging to a tamarind tree with the help of her own scarf. At the relevant time, she was aged about 16 years and studying in class X. The deceased and the applicant hailed from the same village. As the prosecution story unfurls, the applicant had a love affair with the deceased and to express the same he had also written a love letter to her which has been seized by the police on being

produced by her father Ram Bharos Uikey. Not only this, on 22.12.2013 at about 7-8 PM the applicant came to her house and dragged her out for letting her know as to what he had written for her on the wall. After that, the deceased did not get back alive, and in the next morning her family members came to know through the brother of the applicant that Harita Uikey had ended her life by hanging to a tamarind tree with the help of scarf.

2. On the *merg* intimation given by the father of the deceased, FIR came to be registered against the applicant for an offence under Section 306 IPC. Overall investigation led to submission of the Final Report under the same Section followed by framing of Charge dated 26.02.2014, which is sought to be quashed in this revision.

3. Counsel for the applicant submits that the allegations made against the applicant, even if seen in the light of the material collected by the prosecution, do not give rise to an offence punishable under Section 306 IPC as the ingredients of abetment contained in Section 107 IPC are not at all attracted to this case. In support of his submissions, counsel for the applicant relied upon the decision of the Supreme Court in the matter of **State of Kerala and others v. S. Unnikrishnan Nair and others** rendered on **13.08.2015** in **Criminal Appeal No. 2086/2014**, decisions of this Court in the matter of **Raj Shekhar Paliwal and another v. State of CG and another** reported in **2021 (1) CGLJ 145** and the one in the matter of **Arvind and others v. State of**

**CG** rendered on **05.02.2014** in **Criminal Revision No. 301/2013**.

4. On the other hand, counsel for the respondent/State supports the charge framed by the Additional Sessions Judge (FTC) on 26.02.2014 and submits that there is ample material collected by the prosecution to show that on account of the act of the applicant where he was un-necessarily exhibiting his inclination towards her; wrote a love letter and also scribbled the offending words like *Laila Majnu* on the wall of her uncle, she felt humiliated, lost her composure and eventually ended her life by hanging to a tree. In the midst of this material, according to the State counsel, the charge framed against the applicant under Section 306 IPC is correct and cannot be quashed by this Court.

5. Having heard counsel for the parties and gone through the material collected by the prosecution what *prima facie* appears to this Court is that it was the one sided inclination of the applicant towards the deceased. There does not appear to be any responsive or reciprocal gesture from the deceased towards the applicant. Even the so-called love letter allegedly written by the applicant which was seized by the police on being produced by her father Ram Bharose goes to show that earlier the deceased had got angry and spurned the love offer of the applicant. The statement of the father of the deceased also indicates towards another instance where the applicant had caught hold of her hand while she was coming from the school. At that time, the father of the deceased was working in his field and that on seeing him, the applicant

moved ahead. Similarly, the 161 statement of Vidya Uikey – the sister of the deceased, goes to show that on 22.12.2013 at about 7-8 PM when the deceased was studying in her house, the applicant came there and asked her to accompany him outside for being shown the words written for her on the wall. Her statement also shows that when the deceased did not listen to the applicant, he dragged her out and took to the house of the uncle of the deceased on whose wall the words “Laila Majnu” were scribbled by him. Furthermore, the statements of almost all the witnesses go to show that the applicant had written the words “Laila Majnu” on the wall, and thereafter in the night she decided to say good-bye to the worldly existence, probably for the reason that the act of the applicant made her feel humiliated in the society and thus fall in the grip of unbearable mental tension. Having thus seen the material collected by the prosecution at its face value in the light of various decisions of the Apex Court, one being in the matter of **Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)** reported in **AIR 2010 SC 1446**, there is a strong ground for presuming that the accused/applicant has committed an offence punishable under Section 306 IPC by persistently putting the deceased in an embarrassing situation and resultant humiliation by shooting love letter, catching hold of her hand, entering her house and dragging her out to show the words written for her on the wall – all using as tools in order to exhibit his one sided inclination towards her, and thus abetted her to finish her worldly existence. Applicant thus by doing these things persistently to the humiliation of the deceased created such a scene before her that she chose

the way to depart, which *prima facie* can be construed as abetment to commit suicide. Sorry to say, the judicial pronouncements relied upon by the applicant, being on altogether different facts, are of no help to him, and therefore kept aside.

6. The charge under assail in this revision *prima facie* being not incorrect makes the applicant face trial. No interference with the same is called for, and accordingly the revision is dismissed.

7. There is no observation on merit aspect of the case by this Court while dealing with this revision, and the trial Court would be duty-bound to proceed with the trial without being influenced by this order. Since the order framing charge was stayed way back on 04.02.2015, the trial is expected to be concluded as early as possible but not later than six months from today.

8. Revision dismissed.

Sd/-

**(Vimla Singh Kapoor)**  
**Judge**