

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 986 of 2018**

- State Of Chhattisgarh Through- Police Station Supela, Durg District Durg (CG)

---- Petitioner

Versus

Prakash Bisen S/o Ashok Bisen, aged about 21 years, Sakin Village Kurud Road, Kohka, Thana Supela, Durg, District Durg (CG)

---- Respondent

For Petitioner/State : Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

31/10/2018

1. Heard on the application for grant of leave to appeal filed under Section 378 (3) of the Cr.P.C.
2. The instant Cr.M.P. has been filed seeking leave to appeal against the judgment dated 6.1.2018, passed by the Additional Judge to the Court of First Additional Sessions Judge, Durg (CG) in S.T.No.74/2016, wherein the said Court has acquitted the respondent of the charge under Section 306 of the I.P.C.
3. In the present case, name of the deceased is Ku. Devki Verma, who committed suicide by hanging on 29.7.2015 at about 8.00 pm. One suicidal note was collected during investigation and in that letter, it is mentioned that one Prakash has harassed her constantly without her fault and that is why

she is committing suicide. The trial Court after evaluation of the entire evidence on record came to the conclusion that the suicidal note is vague in nature. It is not clear from the said note as to when and on what time, she has been harassed by the respondent. Call details of mobile phone of the deceased and the respondent were collected, but it is not substantiated that the respondent has made frequent calls to the deceased. The respondent was not in relation of the deceased and it was not established from the evidence that for what time he came into contact with the deceased.

4. From the overall evidence, it is not established whether the respondent took active part in instigation for commission of offence under Section 306 I.P.C. For commission of offence under Section 306 I.P.C., it is necessary that the case should fall within the ambit of Section 107 of the IPC, which should comprise of :

- (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.

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.

5. The trial Court did not find any connecting piece of evidence and came to the conclusion that charge under Section 306 of the IPC is not established against the respondent. After reassessing the evidence, this Court has no reason to interfere with the finding recorded by the trial Court.

It is not a case where the respondent should be called for full consideration of the case. Accordingly, the prayer for leave to appeal is rejected.

6. Consequently, Cr.M.P. stands dismissed. **Sd/**

(Ram Prasanna Sharma)

Judge

sunita