



2025:CGHC:28241

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 441 of 2016

1 - Kamal Kumar Sahu S/o Kaliram Sahu Aged About 30 Years R/o Behind Sheetla Devi Mandir, Bada Ashok Nagar, Police Station Gudhiyari, District Raipur. Civil And Revenue District Raipur Chhattisgarh , Chhattisgarh

2 - Kaliram Sahu S/o Abhay Ram Sahu Aged About 62 Years R/o Behind Sheetla Devi Mandir, Bada Ashok Nagar, Police Station Gudhiyari, District Raipur. Civil And Revenue District Raipur Chhattisgarh , District : Raipur, Chhattisgarh

Appellants(s)

versus

1 - State Of Chhattisgarh Through Station House Incharge, Police Station Gudhiyari, District Raipur Chhattisgarh , Chhattisgarh

Respondent(s)

(Cause-title taken from Case Information System)

For Appellant(s) : Ms. Anuja Sharma, Advocate

For Respondent(s) : Mr. R.C.S. Deo, PL

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

26/06/2025

Heard.

1. This criminal appeal under Section 374 (2) of the Cr.P.C is directed against the judgment of conviction and order of sentence dated

30/03/2016 passed by the learned V Additional Sessions Judge, Raipur, (C.G.) in Sessions Trial No. 86/2014, whereby the learned Sessions Judge has convicted the appellants under Sections 306/34 of the IPC and sentenced to undergo RI for 7 years with fine of Rs. 1000/-, with default stipulation.

2. Case of the prosecution, in brief, is that Sub-Inspector Lakhan Lal Sahu of Gudhiyari Police Station, Raipur received an information over telephone from Saraswati Nagar Police Station, Raipur that on 31/12/13 at about 9.00 pm, Mrs. Sunita Sahu (henceforth 'the Deceased') admitted in hospital for treatment. Subsequently, she died on 05/01/14 while being admitted to Kalda Hospital, Raipur for treatment of burn injuries. The inquest report of which has been registered at Saraswati Nagar Police Station. On the above information, Sub-Inspector Lakhan Lal Sahu, after receiving the inquest report diary from Saraswati Nagar Police Station, Raipur, reached Kalda Hospital, Raipur. Subsequently, the postmortem of the deceased's body was conducted. Thereafter, Lakhanlal Sahu returned to Gudhiyari Police Station and the actual inquest report was registered and the investigation was taken up.

On 01/01/14, the dying declaration of the deceased was recorded by the Executive Magistrate/Additional Tehsildar. During the investigation, it was revealed that the Deceased was being taunted by her husband Kamal Sahu (henceforth 'A1) and father-in-law Kali Ram (henceforth 'A2') by saying that she is a 'चरकट', due to which she got fed up and burnt herself by pouring kerosene on herself, which led to her

death. After the investigation, the above crime was found to have been committed by the appellants, so the police station Gudhiyari, Raipur registered a crime against the appellants under Section 306, 34 of the Indian Penal Code and took it into investigation.

During the investigation, the statements of the witnesses were recorded. A map of the scene of the incident was prepared. Thereafter, the accused were arrested and an arrest panchnama was prepared. On finding sufficient evidence against the appellants, a charge-sheet was filed against the appellants.

3. In order to bring home the offence, the prosecution examined as many as 12 in its support. Statements of the appellants under section 313 of Cr.P.C were recorded, wherein they have pleaded that they are innocent and have been falsely implicated in the present case.
4. The trial Court after appreciating oral and documentary evidence available on record, by its judgment dated 30/03/2016 convicted and sentenced the appellants as mentioned in the opening paragraph of this judgment. Hence, this appeal.
5. Ms. Anuja Sharma, learned counsel for the appellants submits that the appellants have been falsely implicated in the present case. There is nothing on record to indicate that, on the date of the unfortunate incident or any time in close proximity thereof there was any act of instigation on the part of the Appellants. She would further submit that the essential ingredients of Section 306 IPC are not fulfilled, as there appears to be no provocation or instigative act in close temporal proximity to the incident.

The language employed in the dying declaration does not reflect any direct inducement that left the deceased with no other recourse but to take such an extreme step. Reliance has been placed in the matters of ***Ramesh Kumar v. State of Chhattisgarh, 2001 9 SCC 618 and Sanju v. State of Madhya Pradesh, 2002 5 SCC 371.*** Therefore, the convictions awarded by the trial Court is not sustainable and the appellants are entitled to be acquitted.

6. *Per contra*, Mr. R.C.S. Deo, learned Panel Lawyer appearing for the State/ respondent, would opposed the submissions made by the counsel for the appellants and submits that there are sufficient evidence available on record to convict the appellants, and the Trial Court has rightly convicted and sentenced the appellants.
7. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
8. Dhamar Sahu (PW1) is father of the Deceased. He stated that his daughter Sunita (deceased) ablaze herself in her in-law's house. The Deceased used to tell that the appellants used to fight with her. He deposed that the Deceased had told her that when the construction work was going on, she gave food to the mason, and on this matter, the accused used to call her 'चरकट'. He deposed that the Deceased was married to A1 twelve years prior. The accused used to fight many times and the Deceased had come to his house many times. A1 used to doubt his daughter's character, and also used to beat her and abuse her. This

witness deposed that being fed up of these things, she poured kerosene oil on herself and ablaze. In cross-examination, this witness has admitted that some times when, the Deceased and A1 used to quarrel, then A1 used to leave the Deceased at his house and after two-three days, he used to take her back.

9. Dashoda Bai (PW2), Mother of the Deceased, in her statement has deposed that on the date of incident, A1 called her over phone and told her to come. When she reached, the Deceased was taken to hospital. She saw that the Deceased was completely burnt. On being asked, the Deceased told her that she, after getting instruction from A2, had offered the food to a mason, but in the evening, the appellants quarreled with her by saying 'चरकट', which she could not bear and subsequently, she after pouring kerosene on her get ablazed herself. In cross-examination, this witness has deposed that A1 had seen the Deceased while she was giving food to mason, due to which he quarreled. PW-3 Yashwant Sahu, brother of the deceased also corroborated the statements of his parents i.e. PW-1 & PW-2.
10. The Dying Declaration of the Deceased is Ex.P/6. It was recorded by the Executive Magistrate, Raipur. In the dying declaration, the Deceased has stated that she, after pouring kerosene on herself, ablaze herself. She also stated that since the appellants used to call her 'चरकट', she got fed up and ablaze herself.

11. From perusal of the above statement of the witnesses, it is clear that the Deceased burnt herself after pouring kerosene on her. She has clearly stated that since the appellants used to quarrel her and call her 'चरकट' .
12. Section 306 IPC provides that if any person commits suicide, whoever abets the commission of such suicide, shall be liable to be punished. The ingredients of abetment are set out in Section 107 of IPC which reads as under :-

"107. Abetment of thing.- A person abets the doing of a thing, who-

First.- Instigate any person to do that thing, or

Secondly.- Engages with one or 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."

13. There is no direct evidence adduced by the prosecution against the appellants having abetted the Deceased into committing suicide. The prosecution has relied on Section 113A of Evidence Act which reads as under :-

"113A. Presumption as to abetment of suicide by a married woman. When the question is whether the commission of suicide by a woman had been abetted by her or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to

cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.”

14. In the instant case, all of the above witnesses have stated in their statements that the marriage between the appellant and the Deceased was solemnized 12 years ago and they had two children. Thus, it is apparent from the evidence that 12 years of marriage has passed and no any previous report was lodged regarding any harassment or instigation by the Deceased. Thus, the ingredients of presumption of abetment of suicide that the suicide has been committed within 7 years from the date of her marriage was not proved.
15. From perusal of the record, the only allegation against the appellants is that they chanted the Deceased 'चरकट', when she offered food to a mason and as such, she committed suicide. Therefore, the Deceased after 12 years of marriage committed suicide by ablaze herself.
16. None of the witness has stated any where that because of any dowry demand, the appellants were intentionally harassing the Deceased. Though, the witnesses have stated about quarreling in between the Deceased and the appellants, but none of them have stated any reason as to why the quarrels used to take place. Father and mother of the Deceased have stated that the Deceased told that she, after getting instruction from A2, had offered the food to a mason, but in the evening, the appellants quarreled with her by saying 'चरकट', which she could not bear and subsequently, she after pouring kerosene on her get ablazed herself

17. Derogatory remark or quarrel by husband in matrimonial life alone cannot be considered sufficient to the extent to constitute abetment unless something extra-ordinary, more than normal wear and tear of married life, is shown on or just before the date of incident. The Hon'ble Supreme Court in the matter of ***Kumar @ Shiva Kumar v. State of Karnataka, 2024 INSC 156 = AIR Online 2024 SC 111*** has referred its earlier decision rendered in the matter of **Ramesh Kumar** (Supra) and held that a word uttered in a fit of anger without intending consequences can't be said to be instigation for suicide. The Hon'ble Supreme Court reiterated that to convict an accused for committing an offence of abetment of suicide under Section 306 of the IPC, it must be proved by the prosecution that the accused, by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide. In this case, the only thing was found after perusal of the evidence that on the date of incident, the Deceased after getting instruction from A2, had offered the food to a mason, but in the evening, the appellants quarreled with her by saying 'चस्कट', which she could not bear and subsequently, she after pouring kerosene on her get ablazed herself.
18. The Supreme Court in **Ramesh Kumar** (Supra) delved into the meaning of the word 'instigate' or instigation' and held as under:-

20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that

effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.”

19. I find none of the ingredients required in law to make out a case under Section 306 IPC to be even remotely mentioned in the charge-sheet or are being borne out from the material on record. The utterance attributed to the appellants assuming it to be true cannot be said to be of such a nature as to leave the deceased with no other alternative but to put an end to her life.
20. Considering the above facts and circumstances of the case, I am of the view that the prosecution has failed to prove its case and the trial Court has not properly appreciated the evidence. Therefore, the judgment of conviction and order of sentence are hereby set-aside.
21. Consequently, the appeal is **allowed**.
22. It is stated that the appellants are on bail. Their bail bonds shall be remain operative for a further period of 6 months in light of Section 437-A of the Cr.P.C.

23. The trial court record along with a copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

Sd/-
(Bibhu Datta Guru)
Judge

Rahul/Gowri

Head Note

Derogatory remark or quarrel by husband/in-laws in matrimonial life alone cannot be considered sufficient to the extent to constitute abetment unless something extra-ordinary, more than normal wear and tear of married life, is shown on or just before the date of incident.

दांपत्य जीवन में पति/ससुराल पक्ष द्वारा अनादर सूचक टिप्पणी या झगड़ा उस समय तक दुष्प्रेरण के लिए पर्याप्त नहीं माना जा सकता जब तक घटना दिनांक या उससे ठीक पहले दांपत्य जीवन के सामान्य नोंक-झोंक के अतिरिक्त, कुछ असाधारण घटित न हुआ हो ।