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**(2021) 02 CHH CK 0001**

**Chhattisgarh High Court**

**Case No:** Criminal Revision No. 652 Of 2018

Narayan Chandrakar

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

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**Date of Decision:** Feb. 4, 2021

**Acts Referred:**

- Indian Penal Code, 1860 - Section 107, 306

**Hon'ble Judges:** Rajendra Chandra Singh Samant, J

**Bench:** Single Bench

**Advocate:** Akhtar Hussain, Atanu Ghosh, Gurudev I. Sharan

**Final Decision:** Dismissed

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**Judgement**

Rajendra Chandra Singh Samant, J

1. This criminal revision has been brought being aggrieved by the order of framing charge dated 15.02.2018, passed in S.T. No. 06 of 2018, by the learned

Additional Sessions Judge (FTC), Kabirdham, District " Kabirdham under Section 306 of the Indian Penal Code.

2. It is submitted by the learned counsel for the applicant that the impugned order of framing charge is erroneous and perverse. There had been no evidence in the case to show that the applicant had abetted the deceased in any manner to commit suicide. Therefore, the charge framed against the applicant is not sustainable.

Prayer is made to grant relief to the applicant.

3. Reliance has been placed on the judgment of this Court in Cr.R. No.225 of 2012, decided on 02.03.2020 between Jogender Singh & Another Vs. State of C.G. and in Raj Sekhar Paliwal & Anr. Vs. State of C.G. & Anr., reported in ILR 2020 Chhattisgarh 1420.

4. State counsel opposes the revision petition and the submission made in this respect. It is submitted that there is evidence in the record to show that the deceased committed suicide as a result of torture given by this applicant. Therefore, it is a clear case of abetment for commission of suicide. There is no substance in the revision petition.

5. I have heard the learned counsel for the parties and perused the documents placed on record.

6. Considered on the submissions and perused the documents placed on record. The witness namely Roshni Chandrakar, Shivrani Verma were present on the spot of the incident, when the applicant arrived in the house of the deceased Yamini Chandrakar and complained that she was not picking up his phone calls and starting quarreling with her. It is alleged that this applicant then started beating the deceased, subsequent to which, the deceased hanged herself, who was then taken down from the hanging noose by this applicant himself. The deceased was taken to the hospital where she was declared dead. This witnesses have made additional statement that the deceased Yamini Chandrakar used to say to this applicant, that if he continues to harass her, she will commit suicide. The trial Court has held that the evidence present in the case, make out a prima-facie case against the applicant.

7. From the material in the records, it is reflected that the applicant and the deceased were having love affair for sometime and prior to this incident there had been

break-up between them even then the applicant was pursuing to continue with the affair, in which, the deceased was not interested. The evidence shows that the applicant arrived on the spot to meet with the deceased for making complaint and asking why the deceased was not picking up his phone call, which led to quarrel and beating of the deceased.

8. In case of Madan Mohan Singh Vs. State of Gujrat & Anr., reported in (2010) 8 SCC 628, it was held by the Supreme Court that the ingredients of Section 107 of

I.P.C. must be present to make out a case under Section 306 of I.P.C.. In case of Chitresh Kumar Chopra Vs. State (Govt. of NCT Delhi), reported in AIR 2010 SC

1446, the Supreme Court has held that to constitute "instigation", a person, who instigates another has to provoke, incite, urge or encourage the doing of an

act by the other by "goad" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action;

provoke to action or reaction", "to keep irritating or annoying somebody until he reacts."

9. The words instigation that has been explained in Chitresh Kumar (supra) means to keep irritating annoying somebody until he or she reacts. Similarly in the case of Ramesh Kumar Vs. State of C.G. reported in AIR 2001 SC 3837, the Full Bench of Supreme Court has held that act or continued course of conduct, which creates circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In this case, there is evidence of witnesses that the deceased here earlier warned the applicant, that if he continues to harass her, she will commit suicide. The statement of the witnesses shows that on the date of incident, the applicant was engaged in the similar act and consequence of which had been the commission of suicide by the deceased. Hence, at this stage, no such conclusion can be drawn that the instigation on the part of the applicant was not at all present, therefore, this Court is of the view that the learned trial Court has not committed any error in framing charge against the applicant.

10. In the result, the revision petition has no merit and it is dismissed accordingly.