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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

ON THE 24th OF APRIL, 2024

CRIMINAL APPEAL No. 6501 of 2023

BETWEEN:-

**THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THROUGH POLICE STATION NEELGANGA,
DISTRICT UJJAIN (MADHYA PRADESH)**

.....APPELLANT

(SHRI H.S.RATHORE - GOVT. ADVOCATE)

AND

**ADITI D/O MANOHAR SHARMA, AGED ABOUT 24
YEARS, 41/5, NAI AABADI DISTRICT DEWAS (MADHYA
PRADESH)**

.....RESPONDENTS

(SHRI RISHIRAJ TRIVEDI - ADVOCATE)

.....

*This appeal coming on for hearing this day, the court passed the
following:*

ORDER

Heard on I.A. No.6904/2023, an application for grant of leave filed on behalf of the State.

2. The appellant State has filed the present Criminal Appeal under Section 378(3) of Cr.P.C. being aggrieved by the judgment dated 01.02.2023 passed in S.T. No.397/2019 passed by Sessions Judge, District Ujjain whereby the learned trial Court has acquitted the respondents from the charges under Section 306 of IPC, 1860.

3. Counsel for the State has submitted that in this case allegation against the respondent, who happens to be sister-in-law, is that she was threatening the

applicant for sending him to jail due to which he committed suicide. Respondent and the deceased had illicit relationship however, later on, respondent started demanding money and also started black mailing the deceased. The statements of Lakshman Sharma (P.W.1), Satish Sharma (P.W.2), Anil Patel (P.W.4) and wife Nisha Sharma (P.W.6) found corroborated with the prosecution case regarding abetment. The order of acquittal suffers from legal infirmity causing injustice and prejudice to the appellant, hence the same deserves to be set aside, therefore, counsel prayed for grant of leave to appeal.

6. On the other hand, counsel for the respondent has opposed the prayer by submitting that learned trial Court had considered every aspect of the case and acquitted the respondents, the findings of acquittal cannot be converted in conviction without concrete and cogent evidence. Prosecution is unable to prove the abetment under Section 107 of IPC. It is also well settled principle that when two views are possible, the view of acquittal adopted by the trial Court required to be accepted. Hence, the order of acquittal does not warrant any interference.

7. In view of the submissions, I have gone through the impugned judgment and the record. The said suicide note is also recovered.

8. Only on the basis of suicide note the ingredients of abetment provided under Section 107 of IPC cannot be made out. Counsel for the appellant is not able to point out the illegality or perversity committed by the learned trial Court in acquitting the respondent from the charges under Section 306 of IPC. Nothing has been pointed out that the ingredients of Section 107 of IPC for committing abetment against the deceased is there. The learned trial Court

relying upon the judgment of Apex Court in the case of *Jyoti Narendra Chatar vs. State of M.P. [2006 Legal Eagle (MP) 1903]*, *Shyambai & Ors vs. State of M.P. [2015 Legal Eagle (MP) 2338]*, *Ram Naresh & Anr. vs. State of M.P. & Ors [2002 Legal Eagle (MP)100]*, *Madiya alias Mahadev vs. State of M.P [2006 Legal Eagle (MP)1962]*, *Gangulal Mohan Reddy vs. State of A.P. [(2010) 1 SCC 750]*, has considered the evidence in its right perspective and acquitted the respondents. Hence, in view of the aforesaid findings arrived at by the learned trial Court, no case of interference is made out. The matter is declined to be admitted. Consequently, the appeal is dismissed.

9. On this aspect, the law laid down by Hon'ble Apex Court in a recent judgment of *Ballu @ Balram@ Balmukund and Anr. Vs. State of M.P. [2024 Law Suit (SC) 279]* decided on **02.04.2024**, is worth referring here :-

"20. The High Court could have interfered in the criminal appeal only if it came to the conclusion that the findings of the trial Judge were either perverse or impossible....."

21. In any case, even if two views are possible and the trial Judge found the other view to be more probable, an interference would not have been warranted by the High Court, unless the view taken by the learned trial Judge was a perverse or impossible view."

10. In view of the aforesaid, the application of leave to appeal against acquittal is hereby dismissed. Resultantly, this appeal is hereby dismissed.

11. Registry is directed to send a copy of this order to the trial Court concerned for information.

(PREM NARAYAN SINGH)
JUDGE