

**Kandi Vs. the State of Madhya Pradesh**

**Kandi Vs. the State of Madhya Pradesh**

**SooperKanoon Citation :** [sooperkanoon.com/1045173](http://sooperkanoon.com/1045173)

**Court :** Madhya Pradesh

**Decided On :** Jan-03-2013

**Appellant :** Kandi

**Respondent :** The State of Madhya Pradesh

**Judgement :**

IN THE HIGH COURT OF MADHYA PRADESH, JABALPUR SINGLE BENCH :  
HONBLE MR. JUSTICE N.K.GUPTA, J.Criminal Revision No.1099/2011 Kandi &  
others                      VERSUS                      State                      of                      Madhya                      Pradesh  
----- Shri Manish Datt, Senior  
Advocate along with Shri Nishant Datt, Advocate for the applicants. Shri  
S.K.Kashyap,                      Public                      Prosecutor                      for                      the                      State/                      respondent.  
-----

**ORDER**

(Passed on the 3rd day of January, 2013) The applicants have preferred the present revision application against the order dated 25.6.2011 passed by the learned Third Additional Judge to Fourth Additional Sessions Judge, Damoh in S.T.No.117/2011, whereby the charges of offence punishable under sections 306 or 306 read with section 34 of IPC were appended against the applicants.

2. The prosecution's case, relating to the present revision, in short, is that, the deceased had committed suicide because the applicants made an allegation of

theft - 2 - Criminal Revision No.1099 of 2011 upon the deceased and also a threat was given to him to assault and to abduct him.

3. After considering the statements made by the learned counsel for the parties and looking to the facts and circumstances of the case, it is apparent that there was no relation of the deceased and the applicants, so that presumption under section 113-A of Evidence Act may apply. The overt-acts as alleged against the applicants do not fall within the purview of section 107 of IPC and therefore, no offence punishable under section 306 of IPC is made out against the applicants. Hence, no charge of offence punishable under section 306 of IPC could be framed against the applicants either directly or with help of section 34 of IPC. Under such circumstances, the order dated 25.6.2011 passed by the learned Additional Sessions Judge appears to be erroneous.

4. On the basis of the aforesaid discussion, it appears that an apparent illegality has been done by the learned Additional Sessions Judge in passing the order dated 25.6.2011. Consequently, the revision filed by the applicants is hereby allowed. The order dated 25.6.2011 passed by the learned Additional Sessions Judge is hereby set aside. The applicants are discharged from the charge of - 3 - Criminal Revision No.1099 of 2011 offence punishable under section 306 or 306 read with section 34 of IPC.

5. A copy of the order be sent to the trial Court for information and compliance.  
(N.K.GUPTA) JUDGE 3 1/2013 Pushpendra

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**