

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr. M.P. No. 603 of 2015**

1. The State Of Chhattisgarh Through: District Magistrate, Korba, Chhattisgarh

---- Petitioner**Versus**

1. Sarju Prasad Prajapati S/o Bhagwat Prasad Prajapati Aged About 28 Years
2. Rajendra Kumar S/o Jogi Prasad Kashyap Aged About 28 Years
3. Billa @ Kamdev S/o Baijnath Yadav Aged About 23 Years
4. Gopal Das S/o Nirmal Das Mahant Aged About 35 Years

All R/o Jangal Side, Patel Mohalla, Police Station- Bakimongra,
District- Korba,

---- Respondents

For Petitioner

: Shri Chitranjay Patel,
Government Advocate.

Respondents are not noticed.

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**ORDER****21/07/2015**

1. The Petitioner/Appellant preferred this Cr.M.P. followed by Acquittal Appeal with a prayer that Leave to Appeal be granted and Acquittal Appeal may be heard on its merits.

2. The instant Cr.M.P. followed for Acquittal Appeal preferred against judgment dated 26.2.2014 passed in Special Sessions Case No.1/2011 passed by the Special Sessions Judge, (Atrocities), Korba (CG) whereby and whereunder the Learned

Special Judge acquitted all the Respondents of the charges framed under Sections 294, 506 Part II, 342, 323/34, 325/34 of the I.P.C. and Section 3 (1) (iii) and Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Heard on Cr.M.P. for Leave to Appeal.

4. The Cr.M.P. and Acquittal Appeal is barred by 431 days of its limitation. I.A.No.1/2015 has been filed to condone the delay.

5. Learned Counsel for the Petitioner/Appellant would submit that as the State is a multi functioning body, for fulfillment of the formalities, such delay has been occurred in filing the Cr.M.P., and the same may be condoned.

6. Also heard on Leave to Appeal.

7. Learned Counsel for the Petitioner/Appellant submits that the Trial Court has erred while appreciating the entire evidence. Though the victim and other witnesses have turned hostile but the injuries noticed on the body of PW1-Bheema Tandon were corroborated. There was also corroboration regarding lodging of the First Information Report (FIR); recording of the statement under Section 161 of the Cr.P.C. FIR was lodged without any delay. The victim was injured; his teeth were broken during the incident and looking to the entire investigation Trial Court ought to have held that the Respondents were the assailants, therefore,

Leave to Appeal may be granted and the appeal may be heard on its merits.

8. Perused the material on record along with Cr.M.P. and Acquittal Appeal.

9. The evidence shows that PW1, Bheema Tandon, the complainant turned hostile and has not supported the case of prosecution. PW-2, Ganeshram also turned hostile and has not supported the case of prosecution; he has also denied that he had disclosed the name of the accused while lodging of the FIR. PW7, Satan Tandon who was informed by PW2, Ganeshram regarding the incident also turned hostile and has not supported the case of the prosecution. Besides this no other eye witness or evidence has been adduced by the prosecution during trial. The Learned Trial Court in a detailed judgment appreciated that though the injuries were grievous and simple noticed on the body of PW1, Bheema Tandon, there was no evidence whether the Respondents assaulted and caused those injuries noticed by the Doctor on PW1, Bheema Tandon. The Trial Court also held that there was no evidence regarding Section 3 (1) (iii) and 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In absence of any evidence the Trial Court acquitted the Respondents.

10. There is delay of 431 days in filing the Cr.M.P. followed by Acquittal Appeal. No satisfactory explanation has been offered regarding the delay. After perusal of the material and evidence on

record, I am of the view that this is not a fit case where Leave to Appeal be granted. I.A.No.1/2015 is dismissed as not maintainable. Consequently, Cr.M.P. is dismissed and the Acquittal Appeal is also dismissed.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE