

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 11 of 2014

1. State Of Chhattisgarh, Through S.H.O., P.S. Chhawani, Distt. Durg C.G.

---- **Appellant**

Versus

1. Shravan Kumar S/o Late Shri Fayaram, aged about 35 Years, R/O LC-17 J, Camp-1, Still Nagar, P.S. Chhawani, Bhilai, Distt. Durg C.G.

---- **Respondent**

For Appellant. - Mr. Neeraj Kumar Jain, Govt. Advocate for the State.

Hon'ble Shri Justice T. P. Sharma
Hon'ble Shri Justice Inder Singh Uboweja

Order On Board
(28/04/2015)

Per T.P.Sharma, J.:-

1. This is petition for grant of leave to appeal against the judgment of acquittal dated 31.01.2013 passed by the 5th Additional Sessions Judge, Durg (C.G.), in S.T.No.57/2012, whereby the trial Court has acquitted the respondent of the charges framed under Sections 307/34, 294 of the IPC and Section 27 of the Arms Act on the ground that injured Chandrika Prasad Tiwari (PW/10) himself has not supported the case of prosecution.
2. Present petition for leave to appeal has been preferred after 247 days of its limitation.
3. Considering the judgment impugned and deposition of witnesses including deposition of injured Chandrika Prasad Tiwari (PW/10), I.A.No.01/2014 is allowed. Delay of 247 days in filing the petition for leave to appeal is hereby condoned.
4. Perused the judgment impugned, copy of deposition and documents.
5. As per clear evidence of injured Chandrika Prasad Tiwari (PW/10), some Shravan @ Santosh has caused injury to him, but the appellant produced before the Court was not that Shravan @ Santosh, who

had caused injury to him. Other eye-witnesses have also not deposed that present appellant has committed the offence. In absence of such evidence, it appears that witnesses are suppressing the truth. It is difficult to presume that what was the truth. In absence of incriminating evidence against the respondent, no option except to acquit the respondent was left to the Court below. Therefore, by acquitting the respondent, the Court below has not committed any illegality. We do not find any ground for grant of leave to appeal against the judgment of acquittal.

6. Consequently, the petition for leave to appeal is liable to be dismissed and is hereby dismissed at the admission stage itself.

JUDGE

JUDGE

Vijay