

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 651 of 2016**

Smt. Janak Bai W/o Motiram Sahu Aged About 51 Years R/o Belar,
Police Station - Fingeshwar, District - Gariyaband Chhattisgarh

---- Petitioner

Versus

1. Motiram Ratre S/o Banshi Ram Ratre Aged About 59 Years R/o Village - Belar, Police Station - Fineshwar, District - Gariyaband Chhattisgarh
2. Rajaram S/o Heeraman Sahu Aged About 62 Years R/o Village - Belar, Police Station - Fingeshwar, District - Gariyaband Chhattisgarh
3. Bisauha S/o Nakcheeda Sahu Aged About 44 Years R/o Village - Belar, Police Station - Fingeshwar, District - Gariyaband Chhattisgarh
4. Tayal S/o Umend Ram Sahu Aged About 54 Years R/o Village - Belar, Police Station - Fingeshwar, District - Gariyaband Chhattisgarh
5. State Of Chhattisgarh Through The Station House Officer, Police Station - Fingeshwar, District - Gariyaband Chhattisgarh

---- Respondents

For Petitioner : Mr. D.N. Prajapati, Counsel
For Respondent-State: Mr. B. Gopa Kumar, Dy. Advocate General

Hon'ble Shri Justice P. Sam Koshy**Order on Board****27.06.2016**

1. The present Cr. M.P. has been preferred against the judgment of acquittal dated 24.03.2015 passed by the Judicial Magistrate First Class, Rajim, District - Gariyaband in the criminal case No. 222/2010 whereby the Respondents No. 1 to 4 have been acquitted from the offence punishable under Section 354 read with Section 34 of the Indian Penal Code.

2. It is the case where the present Petitioner had filed complaint against the Respondents for allegedly outraging her modesty on 09.06.2009 in the house of one Naresh Sahu who was the Sarpanch of the said village. Based on the said complaint a case was registered against the Respondents for the offence punishable under Section 354 read with Section 34 of the I.P.C. The matter was put to trial and the Court below finally vide its order dated 24.03.2015 acquitted the Respondents from the charges leveled against them. The Petitioner therefore put the said order under challenge in Revision Petition before the Additional Sessions Judge, Gariaband which was rejected on 10.06.2015 holding that the Revision is not maintainable, it should have been an acquittal appeal before the appropriate Court, leading to the filing of the present Cr.M.P..

3. Learned Counsel for the Petitioner submits that the Court below has not properly appreciated the evidences of the prosecution witnesses particularly the complainant as well as witnesses examined on behalf of the complainant, and then in a mechanical manner disbelieving the same has accrued advantage to the accused persons by acquitting them.

4. Learned Counsel for the Petitioner referred to the statement of the complainant in this regard. However, a perusal of the impugned judgment would clearly indicate that the Court below has in fact duly appreciated all the evidence which has been led by the complainant. After due consideration of the evidences, the Court below reached to the finding that there was a large number of discrepancies in the

statements of the complainant, in as much as the first discrepancy was the date on which the incident took place. According to the complainant there was a marriage in the house of the Naresh Sahu which from the evidence reflected that the marriage had been taken place 2 months back. As such the averment of incident having taken place at the marriage ceremony of Naresh Sahu itself got disapproved. It was also brought to the notice of the Court below that the Superintendent of Police, Raipur on an earlier occasion had conducted an inquiry and had given a report that the entire dispute arose because of a rivalry between two groups in the village and that the original cause for the dispute was, the decision of the village Panchayat recommending the removing/ demolition of the encroachment in the village and one of the encroacher was found to be complainant's son.

5. The Court below also took heavy reliance on the fact that the complainant has not examined her son who was admittedly all along accompanying her. Like wise it was also findings of the trial that the admitted fact was, on 9.06.2009 there was a village meeting in respect of encroachment. Yet the Complainant and her witnesses have expressed total ignorance of such a meeting which is hard to believe particularly for the reason that in the meeting the complainant had also participated and the complainant's son was also an affected party of the resolution moved by the village Panchayat.

6. Taking all these facts and circumstances of the case that has come during the course of the evidence, the finding of the Court below in acquitting the respondents does not seem to be bad in law. That

during the trial the evidences which has come on record and the submission and contentions put forth by the Counsel for the Petitioner calling for interference does not seem to be too strong for setting aside the order of acquittal in favour of the Respondents.

7. Accordingly, the present Criminal Misc. Petition being devoid of merit, the same is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE