

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 220 of 2008**

- Kaushalya Bai W/o Madan Prasad, Aged About 34 Years, Resident Of Village Farsaguda, P.S. Bhanpur, District Bastar (C.G.)

---- **Petitioner****Versus**

- Mohan Prasad S/o Shambhunath Panigarhi, aged about 53 years, r/o Village Farsaguda, P.S. Bhanpuri, District – Bastar (C.G.)

---- **Respondent**

For Petitioner: Ms. Renu Kochar, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****14.02.2017**

1. By way of the present Cr.M.P. leave to appeal has been sought against the order dated 10.04.2007 passed by the Judicial Magistrate, First Class, Jagdalpur in Criminal Case No. 289/2006 whereby both the Respondents in the said case have been acquitted from charges under Section 354 IPC. Likewise Respondent No. 1, Mohan Prasad in the said case was also acquitted under Section 323 of the IPC but Respondent No.2- Sant Kumar Panigrahi was found guilty under Section 323 of the IPC and sentenced till rising of the Court and to pay fine of Rs. 1000/-.
2. Learned Counsel for the Petitioner submits that the Court below has not appreciated the evidence which have come record in respect of the allegation which have been levelled against the Respondent for the commission of the said offence.

3. She further submits that though there has been the statement of the complainant recorded before the Court below which proves the case of the prosecution. But the trial Court has not considered the evidence in its proper perspective. Thus prayed for grant of leave to appeal against the impugned judgment.
4. On perusal of the order of the Court below and the record which is available along with the Cr.M.P. clearly reflect that from the evidence which have been adduced by the prosecution by PW-2, Sadanand Prasad Panigrahi and PW-3, Chamru Ram both of whom have categorically submitted that the assault which has been made upon the complainant Koushlya was at the hands of Sant Kumar Panigrahi. So far as any assault being made by the present Respondent – Mohan Prasad is not reflected from the deposition of any of the prosecution witness. It also does not reflect that the Respondent has committed an act with an intention of out raging modesty of the complainant. The only allegation which has been levelled against the Respondent is that the Respondent is said to have misbehaved with the Complainant Koushlya which does not amounts to out raging modesty of the complainant. In the evidence which have come on record particularly the statement of the prosecution witness the role played by the present Respondent is not at all established against him so far as the commission of the offence under Section 323 as also under Section 354. Further from the Application it does not appear that the Petitioner is aggrieved with the Judgment of conviction of the Accused – Sant Kumar

Panigrahi under Section 323 IPC and acquittal under Section 354 IPC.

5. In the given facts and circumstances of the case this Court does not find any strong case made out by the Petitioner for grant of leave to appeal against the impugned order.
6. The Cr.M.P. thus being devoid of merits stands rejected.

Sd/-

(P. Sam Koshy)
JUDGE

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