

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 621 of 2017

State Of Chhattisgarh, Through The Incharge Police Station
Pamgarh, District Janjgir-Champa, Chhattisgarh.

---- Petitioner

Versus

1. Gulab Singh S/o Rajadhani Chandel, Aged About 45 Years
2. Naval Singh S/o Kedar Singh, Aged About 41 Years
3. Sanju Singh @ Satyendra S/o Chhotelal Chandel Aged About 21 Years
4. Ashish Singh @ Chhote S/o Shiromani Singh, Aged About 25 Years,

All are R/o Village Kodabhat, Police Station Pamgarh, District
Janjgir-Champa, Chhattisgarh.

---- Respondents

For State/appellant-Shri Anupam Dubey, Dy.G.A.
For respondents – Ms. Meenu Banerjee, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

06/11/2017

1. Heard on application for condonation of delay in filing the petition as also on application for grant of leave to appeal.
2. Instant petition is against the order dated 5/12/2016 passed by the JMFC, Pamgarh, District Janjgir-Champa in Criminal Case No.1407/2007 whereby the respondents have been acquitted under Sections 294, 506 Part-II of IPC.
3. As per the prosecution case, incident happened on 27/04/2006 when the respondents were constructing the CC Road in the lane of the village which was objected by the complainant as such the respondents had abused the complainant and also given threat.
4. Learned State counsel would submit that case has been proved by the statement of PW-1 complainant and eye witnesses PW-2 and

PW-3. Reading of their statement would show that offence under section 294 and 506 Part-II IPC are made out. Therefore, order of acquittal is bad in law which requires to be set aside.

5. Learned counsel for the respondents opposes the petition and submits that no reasons have been assigned to condone the delay in filing the petition.

6. Perused the documents and the record. Victim Gayatri Devi has been examined as PW-1 in this case. FIR is marked as Ex.P-1. FIR would show that while road was being constructed it was objected since water of the road was going into private land of the complainant and having objected, the respondents have abused and chased her whereby she ran into her house. Reading of statement of PW-1 would show that no particular abuse have been narrated, only the allegation of abuse have been made. On reading of the statement of PW-1 this fact comes to fore that one of respondent Gulab Singh had filed an application before the Tehsildar Pamgarh wherein stay was granted in respect of the construction made by husband of the complainant which shows that there was some previous enmity existing between the complainant and the respondent Gulab Singh. Statement would also show that house wherein the alleged incident said to have been happened is surrounded by the house of Ramkhilavan and others. Eye witnesses Milan Singh and Kamlesh Singh were examined as PW-2 and PW-3. Statement of PW-2 would show that he has stated that in respect of the drain some dispute was going on and complainant Gayatri Devi was abused, however particulars of the abuse have not been stated. Statement of PW-2 would further show that complainant Gayatri Devi was related to the eye witness Milan Singh PW-2 and some previous dispute was going on as some construction was stayed

by the order of the Tehsildar at the instance of one Gulab Singh. Witness has stated that he has intervened while dispute was going on and some scuffle took place. Said statement is not supported by the independent witness PW-3 Kamlesh Singh.

7. The witness Kamlesh Singh says that there has some dispute took place in the year 2006 in between Gayatri and Gulab Singh and other respondents have also not been named. Witness PW-3 was declared hostile and while examination-in-chief he initially said that in the name of mother and sister abuses were not given by the respondents whereas in the last he admitted that abuse was given in the name of mother and sister. Therefore, there is contradictory statement exist in the statement of the witness. Statement of DW-1 Dayaram Yadav who was working in Gram Panchayat, Kodabhat had stated that on 26/04/2006 he had went to the spot, since CC road was being constructed an application was given by the Gulab Singh and they had went to the spot and advised villagers not to quarrel as it was government work. Over all consideration of the statement would show that statement of PW-1 and PW-2 cannot be solely relied upon as the same is negated by the statement of eye witness PW-3. Statement of PW-1 and PW-2 they are shown to be interested witnesses and were related to each other, it shows that there was some previous enmity existing between the complainant and Gulab Singh. Considering the statement, re-appreciation of the entire evidence cannot be made by this court with respect to the statement of PW-1 and PW-2 as the same is not supported by the statement of PW-3. Further reading of the application would show that no sufficient reasons have been stated to condone the delay in filing the petition and only omnibus statement have been made.

8. In view of this, I do not deem it appropriate to entertain the application for condonation of delay in filing the petition and also I do not find it proper to re-appreciate the evidence on merit to allow the application for grant of leave to appeal.

9. In the result, application for condonation of delay in filing the petition as also application for grant of leave to appeal is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE