

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1183 of 2017**

- State Of Chhattisgarh Through Police Station Pankhajur, District Kanker, Chhattisgarh

---- Petitioner

Versus

1. Anand Pandey S/o Shri Niranjana Pandey, Aged About 33 Years R/o P.V.131, Police Station Pankhajur, District North Bastar Kanker, Chhattisgarh
2. Niranjana Pandey S/o Late Shri Dharendra Pandey, Aged About 61 Years R/o P.V.131, Police Station Pankhajur, District North Bastar Kanker, Chhattisgarh

---- Respondents

For Petitioner/State	:	Shri S.K. Mishra, Panel Lawyer
For Respondents	:	None

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

19/9/2018

1. Heard on I.A.No.1/2017, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by the Hon'ble Apex Court in the matter of State of Haryana Vs. Chandra Mani & Ors., (1996) 3 SCC 132, delay of 3 days in filing the petition is condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (3) Cr.P.C.

4. The instant Cr.M.P. has been filed seeking leave to appeal against the judgment dated 17.5.2017 passed by the Special Judge under Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, in Special Case No. 67/2005, where in the said Court has acquitted the respondent of the charges under Section 498-A of the IPC and Sections 3(1)(x) and 3(1)(xv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. The case of the prosecution is based on the statement of Smt. Rita Komre (PW1), who is the prosecutrix in the present case. All other witnesses, namely- Amar Singh Komre (PW2) and Sitai Bai Mandavi (PW3) have deposed what is informed to them by the prosecutrix. Other witnesses have participated in investigation after registration of F.I.R. As per version of the prosecutrix, the respondent demanded money from her and on non-fulfilling the demand, he quarreled and assaulted her by fists.

6. Statement of the prosecutrix is vague because she has not mentioned on what date demand of money was made and on what date the quarrel took place. No medical evidence is produced before the trial Court in support of version of the prosecutrix regarding assault on her body. The trial Court has elaborately discussed the issue and came to a conclusion that version of the prosecutrix is not sufficient for establishing the cruelty on the part of the respondent. As version of the prosecutrix is vague and there is no corroborative piece of evidence in support of her version, finding of the trial Court that bald statement will not substantiate the offence under Section 498-A I.P.C. is not based on any extraneous matter. Finding of the trial court is based on relevant material placed before it and after re-

evaluating the evidence, this Court has no reason to interfere with the said finding of the trial Court.

7. Admittedly, the prosecutrix was married to the respondent and they were living as husband and wife. Weeps and tears of the husband and wife is not sufficient to establish that it is intentionally insulting or intimidating her. As both were living as wife and husband, there was no question of humiliating the prosecutrix on the basis of caste. Again, the prosecutrix was living with the respondent and there is no evidence that she has been forced to leave her own house. The prosecutrix married to the respondent at her own will and the respondent has not forced her to leave his house or any atrocity is committed on this count. The trial Court has dealt with all the issues and looking to the evidence adduced before the trial Court, no contrary opinion can be found against the finding recorded by the trial Court. Accordingly, the prayer for leave to appeal is rejected.

8. Consequently, Cr.M.P. stands dismissed.

Sd/

(Ram Prasanna Sharma)

Judge