

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 469 of 2018**

- State Of Chhattisgarh Through Police Station Bagicha, District Jashpur, Chhattisgarh.

---- Petitioner**Versus**

1. Ramkumar Patel S/o Shri Sadai Ram Aged About 66 Years
2. Dilmohan S/o Dhansai Aged About 30 Years

Both R/o Ambadand, Police Station Bagicha, District Jashpur, Chhattisgarh.

---- Respondents

For Petitioner/State	:	Shri Sanjeev Pandey, Govt. Advocate
For Respondents	:	Shri Harish Khuntiya, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

29/8/2018

1. Heard on I.A.No.1/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, same is allowed and delay of 111 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. Leave is sought against the judgment dated 2.8.2017, passed by the Judicial Magistrate First Class, Bagicha, District Jashpur (CG) in Criminal Case No. 372/2016, wherein the said Court has acquitted the non-applicants/respondents for commission of offence under Section 429 I.P.C.

for mischief by killing a buffalo evaluated for more than Rs.50/-.

5. Khirodhar (PW1) though deposed in examination in chief that the non-applicants have assaulted his buffalo with club, but he admits that he has not mentioned in his written report that he has seen the incident. Mahesh (PW2) though supported the version of prosecution in examination in chief, but deposed (para 3) of his cross-examination that he had seen the buffalo after the assault. Halkeshwar (PW3) deposed (para 3) that since 9.2.2016, the buffalo was sitting in the house of Khirodhar (complainant) and the buffalo was not able to walk due to pain. Version of Prem Sai (PW4) and Ramprasad (PW5) is hearsay in nature and other witnesses are the witnesses of assisting in investigation.

6. The trial Court has evaluated the evidence as a whole and came to the conclusion that the case is not proved beyond the shadow of doubt. After going through the record, this Court has no reason to interfere with the finding recorded by the trial Court. The non-applicants who have already suffered trial for a long, should not be called for hearing the matter twice looking to the evidence. Accordingly, the prayer for leave to appeal is rejected.

7. Consequently, Cr.M.P. stands dismissed. Sd/

(Ram Prasanna Sharma)
Judge