

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1280 of 2018**

- State of Chhattisgarh Through Police Station Gandhi Nagar, Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner

Versus

- Chhauwa @ Brijlal Harijan S/ Somaru Ram, Aged About 46 Years R/o Village Piparghaska, Ranpurkala, Police Station Gandhi Nagar, Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

 For the petitioner/State : Mr. Suryakant Mishra, PL.

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****5-9-2018.**

1. Heard on I.A.No. 1 of 2018, which is an application for condonation of delay in filing the instant petition.
2. For the reasons mentioned in the application and as per law laid down by the Hon'ble Supreme Court in the matter of **State of Haryana vs. Chandra Mani and others, reported in (1996) 3 SCC 132**, delay of 72 days in filing the instant petition is allowed.
3. Also heard on application for grant of leave to appeal under Section 378 (3) of the Code of Criminal Procedure 1973.
4. This petition is preferred against the judgment of acquittal dated 9-1-2018 passed by the Judicial Magistrate First Class, Ambikapur, District Surguja in Criminal Case No. 2723/2011, wherein the said Court acquitted the respondent for

commission of offence under Sections 294, 506 Part II and 324 of IPC 1860.

5. To substantiate the charge, prosecution examined as many as five witnesses.
6. PW/1 Heeralal deposed that he is not aware about the incident. PW/3 Fulsas admitted (para 3) that she has not seen the incident. PW/4 Mangli Bai has also not deposed anything against the respondent. PW/5 Lokeshwar Prasad is Sub Inspector who conducted investigation after registration of FIR. PW/2 Baldev is victim of the incident. He did not depose regarding utterance of obscene words in public place or threatening to kill him.
7. From the evidence offence under Sections 294 and 506 Part II of IPC is not established in absence of any cogent evidence. Though PW/2 Baldev deposed that respondent assaulted him by axe on his head, but no other witnesses have supported his version. No medical expert is examined in corroborating the statement of Baldev (PW/2). In absence of medical evidence, it is not established that any injury was sustained by the complainant. Looking to the entire evidence, the trial Court found that the charges are not established.
8. Considering the facts and material on record, this court is of the view that it is not a fit case for grant of leave to appeal. Accordingly the application for grant of leave to appeal is

rejected. Consequently, the instant CRMP is also dismissed.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju