

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1293 of 2018**

- State Of Chhattisgarh Through Police Station AJK Durg District Durg Chhattisgarh

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

1. Deepa Verma W/o Horilal Verma Aged About 32 Years R/o Village Marra, Police Station Utai, Durg District Durg Chhattisgarh
2. Horilal Verma S/o Chhannulal Verma Aged About 35 Years R/o Village Marra, Police Station Utai, Durg District Durg Chhattisgarh

---- **Respondent**

For the Petitioner/State : Shri Suryakant Mishra, Panel Lawyer
 For the respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

23.8.2018.

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 34 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. The respondents were charged under Sections 294, 506 Part-II, 323/34 of IPC and under Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 1989 for commission of offence against one Manrakhan

Deshlahare who is alleged to be the member of Scheduled Caste.

5. The complainant has been examined as PW-1 before the trial Court and as per the version of this witness, royalty was given to one Lekhram Pandey for manufacturing bricks by the respondents and the complainant raised objection for the same that is why there was an altercation between both the side.

6. From the entire evidence adduced by the prosecution, the altercation took place only on account of royalty given by the respondents, therefore, prima facie, there is no evidence that altercation took place between the parties on account of caste. If royalty would not have been given, there was no issue between the parties. No one examined to prove the caste of the complainant. Though one SDO, Patan issued caste certificate, he was not examined before the trial Court to prove the certificate. Therefore, caste of the complainant is not proved before the trial Court and it is not proved that any conflict was raised on account of caste.

7. From the evidence of the complainant himself, it is not established that any obscene words were used by the respondents or they threatened him or caused injury on the body. Evidence for these offence are lacking from the evidence of the complainant and any corroborative evidence is not sufficient to bring home the guilt in absence of statement of the complainant. Therefore, finding arrived at by the trial Court is based on material

placed before it. No case for grant to appeal is made out.
Accordingly, the application for leave to appeal is rejected.

Sd/-
(Ram Prasanna Sharma)
JUDGE

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