

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1519 of 2018**

State of Chhattisgarh, through: Station House Officer, Police Station Rajim, District-Gariyaband (C.G.)

---- **Petitioner**

Versus

Sunil Sharma, S/o Shesh Narayan Sharma, Aged About 60 Years, R/o Near Goal Chowk, Gas Godown Road, Rohadipuram, Police Station D. D. Nagar, Raipur District-Raipur (C.G.)

---- **Respondent**

 For State/ Petitioner : Mr. Vivek Sharma, G.A.
 For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

26/10/2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition which is supported with an affidavit of Sanjay Dhruw.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 87 days in filing the petition is condoned.
3. Heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 05.01.2018 passed by Judicial Magistrate First Class, Rajim, District-Gariyaband (C.G.) in Criminal Case No. 192/2010, wherein the said court acquitted the respondent for commission of offence under Sections 294 & 506 (Part-I) of IPC.
5. In the present case, the complainant is one Chandu Lal Sahu. As per version of this witness, the respondent used abusive

language against him on telephone, but he admitted that abusive words and words of threatening are not mentioned in his written complaint. The witness has not specifically mentioned before the trial court as to what were the abusive words used during the incident. He simply deposed that since respondent as threatened him to see in future that is why he reported the matter.

6. For establishing offence under Section 294 of IPC, the complainant has not stated in his statement any word used by the respondent. The respondent is charged under Section 294 of IPC, the essence of the crime under Section 294 of IPC consists in creating a public nuisance which because of its gravity being of a public nature may endanger public peace. In order to bring home the guilt of the accused for an offence under Section 294 of IPC, the prosecution has to establish that the words uttered were obscene. The test of obscenity is whether the tendency of the matter charges as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.
7. Filthy abuses are not uncommon. It had no more significance than mere platitudinous utterances signifying the enraged state of the person's mind. In the case on hand, the words uttered by the respondent are not clear, therefore, the words have no literal significance and it cannot fall in the purview of obscene words. From evidence, it is not established that the offence under Section 294 of IPC is made out.
8. The evidence of threat is also lacking. There is no such evidence that respondent was determined to execute his threat. In

absence of evidence, the offence under Section 506(Part-I) of IPC is also not established.

9. The trial court has elaborately discussed the entire evidence and this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
10. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge