

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1791 of 2018**

- Krishna Kumar Dhuri S/o Late Tirath Ram Dhuri Aged About 41 Years
R/o Old Sarkanda , Lodhipara, Police Station Sarkanda, Tehsil And
District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner**Versus**

- Mohan Singh Dhurvanshi S/o Shri Manbodhi Aged About 55 Years
R/o Ram Nagar Shitla Para, Police Station Gudhiyari Raipur, Tehsil
And District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Petitioner : Shri Sandeep Yadav, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

23/10/2018

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, the same is allowed and delay of 1212 days in filing the petition is condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (4) Cr.P.C.
4. The instant Cr.M.P. has been filed seeking leave to appeal against the judgment dated 2.5.2012, passed by the Judicial Magistrate First Class, Bilaspur (CG) in Complaint Case No.264/2011, wherein the said Court has acquitted the respondent of the charges under Section 294, 506, Part II and

convicted under Section 323 IPC but sentenced to fine only.

5. Case of the complainant is based on the statement of Krishna Kumar Dhuri (PW1) and Kunj Bihari (PW2). Though both have stated that the respondent had used some abusive language, but it is not stated what were the actual words uttered by the respondent.

6. From the evidence of the prosecution, it is not established that any obscene words were used by the respondent. The essence of the crime under Section 294 of the 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 the IPC the prosecution has to establish that the words uttered were obscene. The test of obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.

7. Filthy abuses are not uncommon. It had not more significance than mere platitudinous utterances signifying the enraged state of the person's mind. The words which have no literal significance cannot fall in the purview of obscene words. From the evidence it is not established beyond doubt that any obscene words were uttered by the respondent, thus offence under Section 294 IPC is not established against the respondent.

8. So far as offence under 506 Part II IPC is concerned, no one had deposed before the trial Court that the respondent was having some weapon with him and he was determined to execute threat. In absence of determination, the words uttered are mere fury which is without substance and it is not sufficient to establish the charge under Section 506 Part II IPC.

The trial Court has evaluated the evidence in its entirety and this Court has no reason to interfere with the finding recorded by the trial Court and it is not a case where the respondent should be called for full consideration of the case. Accordingly, the prayer for leave to appeal is rejected.

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

(Ram Prasanna Sharma)

Judge