

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1839 of 2018**

Girilal, S/o Ramprasad Suryawanshi, Aged About 65 Years, R/o Sultan Nagar, Police Station Baloda, District -Janjgir- Champa (C.G.)

---- **Petitioner**

Versus

1. Dhuni Singh Kshatri, Aged About 75 Years, Retired Constable, R/o Village Sitamani, District- Korba (C.G.)
2. Asharam, Aged About 59 Years Posted as Assistant Sub-Inspector, R/o Mungeli, District- Mungeli (C.G.)

---- **Respondents**

For Petitioner : Mr. Suryakant Mishra, Advocate.

For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

22/10/2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, the same is allowed and delay of 60 days in filing the petition is condoned.
3. Also heard on application filed under Section 378(4) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
4. This petition is preferred against order dated 07.04.2018 passed by learned Judicial Magistrate First Class, Janjgir, District- Janjgir-Champa (C.G.) in Criminal Case No. 16/2018, wherein, the said court acquitted both the respondents for commission of offence under Sections 342/34 & 323/34 of IPC.
5. In the present case, both the respondents are police officer posted during the incident as investigating officer at police station- Baloda. As per version of the petitioner, both the officers

called the petitioner in the said police station, confined him and assaulted him which is wrongful confinement.

6. It appears from the evidence that one report of theft was lodged under Section 379 of IPC in the said police station. Both the police officers were investigating for the said offence as per Sections 154 & 156 onwards of Cr.P.C. Offence under Section 379 of Cr.P.C. is cognizable offence and police officer investigating for cognizable offence has all the rights to call any person suspected in commission of the said offence.
7. In cognizable offence, the police authorities has all the rights to arrest the person suspected of crime which is mentioned as cognizable offence. When any person in investigation arrested, the same cannot be termed as wrongful confinement. Though, the complainant deposed before the trial court that both the respondents have assaulted him, but no medical report was produced before the trial court in support of that version and no medical expert was examined.
8. The trial court after assessing the entire evidence came to conclusion that offences mentioned is not established. 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.
9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge