

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1875 of 2018**

- Jagsai Sahu S/o Shri Laxman Sahu Aged About 63 Years R/o Khokhari, Tahsil Pamgarh, Police Station Sheorinarayan, District Janjgir Champa, Chhattisgarh.

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

1. Shiv Kumar S/o Ramayan Sahu Aged About 40 Years R/o Khokhari, Tahsil Pamgarh, Police Station Sheorinarayan, District Janjgir Champa, Chhattisgarh.
2. Narmada Bai D/o Shri Shiv Kumar Aged About 37 Years R/o Khokhari, Tahsil Pamgarh, Police Station Sheorinarayan, District Janjgir Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
3. Anjorwa Sahu S/o Raghuvar Sahu Aged About 72 Years R/o Khokhari , Tahsil Pamgarh, Police Station Sheorinarayan , District Janjgir Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
4. Ramayan Sahu S/o Dauram Sahu (Dead) Aged About 67 Years R/o Khokhari, Tahsil Pamgarh, Police Station Sheorinarayan, District Janjgir Champa, Chhattisgarh., Chhattisgarh
5. Moti Bai Sahu W/o Ramayan Sahu Aged About 67 Years R/o Khokhari, Tahsil Pamgarh, Police Station Sheorinarayan, District Janjgir Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- **Respondents**

 For the Petitioner : Shri Santosh Sahu, Advocate
 For the respondents : Not noticed.

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

05.12.2018.

1. Heard on application for grant of leave to appeal under Section 378(4) of CrPC.
2. This petition has been preferred against judgment dated 13.7.2018 passed by Judicial Magistrate First Class, Pamgarh Distt. Janjgir in Criminal Case No.129/2009 wherein the Court

acquitted all the five respondents for the charges under Sections 323/34 and 506 Part II of the Indian Penal Code, 1860.

3. In the present case, name of the victim is Jagsai Sahu. Though he deposed before the trial Court that all the five respondents have assaulted him, original medical report which was prepared by the medical expert after examination of the said victim was not produced before the trial Court. As per Section 64 of the Indian Evidence Act, 1872, documents must be produced by primary evidence unless permission for secondary evidence is granted as per Section 65 of the Evidence Act. No permission was sought for secondary evidence before the trial Court and in absence of original medical report the trial court opined that bald statement of the victim is not sufficient to establish that he sustained any kind of injury on his body. Therefore, charges under Section 323 IPC is not established.

4. Again there was bald statement of the complainant/petitioner that all the five respondents threatened him to kill. It is a settled law that bald statement is not sufficient to establish the charges under Section 506 Part-II IPC. It should be proved that person who threatened was determined to execute his threat on the spot. Version of the complainant/victim was general in nature against all the respondents and looking to the subjective evidence the trial Court opined that nothing is objectively proved regarding the threat and who really uttered and what words were uttered by anyone. In absence of determination to execute the threat, words are mere fury which has no substance. Looking to the general

and bald statement the trial court opined that the charge under Section 506 Part-II IPC is also not established. After reassessing the entire evidence, this court has no reason to substitute another finding. It is not a case where the respondents should be called for full consideration of the petition.

5. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-

(Ram Prasanna Sharma)
JUDGE