

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1254 of 2017**

State of Chhattisgarh through District Magistrate, Surguja,
Chhattisgarh. --- **Petitioner**

Versus

Angru Gond S/o Anand Gond, Aged About 45 Years, R/o
Village Katkona, Police Station Lakhanpur, District Surguja,
Chhattisgarh. --- **Respondent**

For the applicant : Mr. Suryakant Mishra, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

19.04.2018

1. Heard on I.A.No.1/2017 for condonation of delay. On due consideration of the grounds mentioned in the application, the delay of 35 days in filing the appeal is condoned.
2. Heard.
3. The present petition is against the order dated 20.04.2017 passed by the JMFC, Ambikapur, Distt. Surguja in Criminal Case No.3220/2010 whereby the respondent has been acquitted under sections 294 & 323 of IPC. As per the prosecution case, the report was made by the victim P.W.1 Smt. Moharmaniya that while she was cutting a tree situated on the border of the field at that time the respondent came there, abused her hinting her mother and sister and thereafter assaulted her by way of club on her leg and back while objecting to cutting of tree, therefore, the report was made. After investigation, the charge sheet was filed u/s 294 & 323 of IPC.
4. Learned counsel for the appellant would submit that there is

sufficient evidence on record to show that the offence has been committed as admittedly some assault was made by the respondent. Therefore, the acquittal made by the court below is illegal which requires to be set aside.

5. Perused the record. In this case the victim Moharmaniya is examined as P.W.1 wherein she has stated that while she was cutting a tree over a field (Med) at that time it was objected by the accused. The statement of P.W.1 would show that only omnibus allegations have been made that she was subjected to assault. She has categorically admitted in her statement that the appellant has not abused her, she was cutting a tree over the field and it was objected by the respondent and the statement itself would show that the place where the victim was cutting a tree did not belong to her, the tree was situated in some other field and while the tree was being cut it was objected.
6. P.W.2 Mansai has stated that the assault was disclosed by her wife to him and his statement shows that he was not an eye-witness to the incident. Likewise P.W.3 is also a hear say witness. In the statement P.W.3 he has stated that it cannot be said that whether the injuries sustained by the victim on the knee and back was due to fall or assault. The Doctor (P.W.5) has further stated that the injury is simple in nature and it could be sustained if some one falls on the ground.
7. After evaluating the evidence, this Court is not inclined to re-appreciate the facts and evidence stated by the witnesses. The prosecution in this case was not able to prove the offence beyond reasonable doubt as the evidence of

victim was shaky itself and she has not supported her case without any doubt. In view of this, I do not find any valid reason warranting interference in the impugned order of acquittal of the court below.

8. In the result, no case is made out for grant of leave to appeal u/s 378 of Cr.P.C. Accordingly, Cr.M.P.No.1254 of 2017 is dismissed.

**Sd/-
GOUTAM BHADURI
JUDGE**