

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 382 of 2019**

Smt. Gayatri Pandey, W/o - Shri Radheshyam Pandey, Aged about - 50 years, R/o - Uttari Ring Road, Bauripara, Ambikapur, City Kotwali & Tahsil- Ambikapur, District- Surguja, (C.G.)

---- **Petitioner**

Versus

1. Vrindavan Pandey (Dead), S/o - Late Sampat Pandey, R/o - Uttari Ring Road, Bauripara, Ambikapur, City Kotwali & Tahsil Ambikapur, District- Surguja, (C.G.)
2. Rajesh Kumar Pandey, S/o - Shri Vrindavan Pandey, Aged about 46 years, R/o - Uttari Ring Road, Bauripara, Ambikapur, City Kotwali & Tahsil Ambikapur, District- Surguja, (C.G.)
3. Smt. Sushila Devi, W/o - Shri Rajesh Kumar Pandey, Aged about 43 years, R/o - Uttari Ring Road, Bauripara, Ambikapur, City Kotwali & Tahsil Ambikapur, District- Surguja, (C.G.)

---- **Respondents**

 For Petitioner : Shri Vivek Bhakta, Advocate
 For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

04/04/2019

1. Heard on application for grant of leave to appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973.
2. This petition is directed against the judgment dated 28th November, 2018 passed by Judicial Magistrate First Class, Ambikapur, (C.G.) in Criminal Complaint Case No. 480/2012 wherein the said Court acquitted all the respondents for charge under Section 323 read with Section 34 of IPC, 1860 and Section 4 and 5 of Chhattisgarh Tonahi Pratarna Niwaran Adhiniyam, 2005.

3. In the present case, complainant Smt. Gayatri Pandey (PW-1) deposed before the trial Court that her brother-in-law namely Rajesh Kumar Pandey demanded blanket from her and used force on her hand.
4. She deposed that her husband was being assaulted but no medical evidence was adduced before the trial Court to substantiate the charge that any injury was found on the body of Smt. Gayatri Pandey or her husband. Though the witness of the prosecution deposed that the respondent identified Smt. Gayatri Pandey as black-magician but this version is not mentioned in the report Ex. P-6 lodged by Smt. Gayatri Pandey. No explanation was given before the trial Court for not stating the same in report lodged by Smt. Gayatri Pandey. Unless explanation is given anything which is exaggerated during trial is not acceptable.
5. The trial Court discussed the entire evidence and recorded finding of acquittal. Finding of the trial Court is based on marshelling of relevant material placed on record and not based on extraneous or irrelevant material. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition.
6. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge