

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 530 of 2019

Nisha Pushpkar, W/o - Shri Onkar Prasad Pushpkar, Aged about - 31 years, R/o - Lohar Chowk Sonkarpara, Kankalipara, Ward Police Station Azad Chowk, Raipur (C.G.)

---- Petitioner

Versus

Onkar Prasad Pushpkar, S/o - Shri Sharda Prasad Sonkar, Aged about - 33 years, R/o - Mathpurena, Near Nal Ghar, Bajrang Chowk, Raipur (C.G.), Presently R/o - At Om Steel Traders, Bhathagaon, Ring Road Near Chowk Raipur, Through - Fertilizer and Seed Producer and Distributer Institution Maryadit Society ,Near Ring Road Bhathagaon, Raipur (C.G.)

---- Respondent

For Petitioner	:	Mr. Ganesh Ram Barman, Advocate
For Respondent	:	None

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

22/04/2019

1. Heard on I.A No.1/2019, application for condonation of delay in filing instant petition.
2. On due consideration, the application is allowed and the delay of 34 days in filing the petition is hereby condoned.
3. Heard on application for grant of leave to appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 26th October, 2018, passed by Judicial Magistrate First Class, Raipur (C.G.), in Criminal Case No. 210/2010, wherein the said court acquitted the respondent for commission of offence under Section 494 of the IPC, 1860 for marriage again during lifetime

of her wife namely Nisha Pushpkar with one Purnima @ Poonam Pushpkar.

5. In the present case, the petitioner adduce the evidence of herself and other witnesses namely Ganesh Ram Sonkar (PW-1) and Satish Kumar (PW-2), but no one deposed before the trial Court that any marriage with custom/law is performed by the respondent with alleged Purnima. Though, they deposed that marriage is performed as per custom prevailing in the area i.e. marriage by bangle, but same is not substantiated because no one was present during this customary marriage. There should be strict proof of second marriage, but that is not the case here. If, charge is alleged for second marriage, the second marriage should be legally performed after Chudipratha or any basic ritual, but that is not established before the trial Court.
6. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondent is not established. After reassessing the entire evidence, 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.
7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge