

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 594 of 2019**

Dhirendra Kumar Shukla, S/o - Rajendra Narayan Shukla, Aged about - 52 Years, R/o - Purani Basti, Near Turi Hatri, Kailash Gali, Raipur, District - Raipur (C.G.)

---- Petitioner

Versus

1. Anand Vardhan Tripathi, S/o - Late Shri Balaprasad Tripathi, Upper Division Clerk, Through Superintending Engineer, Chhattisgarh State Electricity Distribution Company Tifra, Bilaspur, District - Bilaspur, (C.G.)
2. Pramod Shukla, S/o - Late Prahlad Shukla, R/o - Katiyapara, Juna Bilaspur, Police Station City Kotwali, Bilaspur, District-Bilaspur (C.G.)
3. Narmada Maharaj (Deleted)
4. Ramfer Pathak (Head Constable) Constable No. 271, S/o- Mahadev Prasad Pathak, Police Station City Kotwali, Bilaspur, District - Bilaspur (C.G.)
5. Kapil Chandravanshi, S/o - Kriparam Chandravanshi, Constable, No. 427, Police Station Purani Basti, Raipur, District - Raipur (C.G.)

---- Respondents

For Petitioner : Shri G.L. Varma, Advocate.
 For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

19/06/2019

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, delay of 283 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973.

4. This appeal is preferred against the order dated 22nd February, 2018 passed by Judicial Magistrate First Class, Raipur (C.G.) in Criminal Case No. 783/2012 filed under Section 365, 294, 323 and 452 of IPC, 1860 by which evidence of appellant is closed and respondents acquitted.
5. In the present case, complaint was filed by the petitioner in the year 1994. The complaint was registered in the year 1998. The petitioner was provided opportunity to adduce the evidence, but he failed to adduce evidence for many years. The case was fixed for recording evidence before charge on 22nd June, 2011, thereafter, a number of opportunities were provided for recording evidence of the appellant. On 2nd August, 2016, opportunity was provided to the appellant to adduce evidence. Again, on 14th September, 2016, last opportunity was provided to adduce evidence, thereafter opportunity was provided to adduce evidence on 22nd April, 2017, 25th May, 2017, 21st July, 2017, 30th August, 2017, 25th September, 2017 and 13th December, 2017, but the evidence was not adduced.
6. The trial Court closed the evidence of the appellant with result in acquittal of respondents. The statement of the appellant himself was incomplete till 13th December, 2017. When the appellant is not fully cross-examined, his evidence cannot be taken into account for deciding the issues between the parties. There is no evidence against the respondents, therefore, the trial Court did not exercise its discretion in favour of the appellant. It cannot be said that trial Court has exercised its discretion against the settled parameters. Looking into the entire record, it is not a case where order of the trial Court is liable to be interfered with by this Court.

3.

7. In view of this Court, it is not a case where respondents should be called for hearing again for full consideration of this petition.

Accordingly, application for grant of leave to appeal is rejected.

8. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Vasant