

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 374 of 2019**

Motilal, S/o Suklal Chelak, Aged About 70 Years, R/o Ward No. 7,
Purani Basti, Baloda Bazar, District- Baloda Bazar Bhatapara (C.G.)

---- **Petitioner**

Versus

1. Nandu, S/o Shyam Tandon, Aged About 30 Years.
2. Raja, S/o Bhel Singh Tandon, Aged About 35 Years.
3. Munna, S/o Not Known.
4. Shyam Ratan, S/o Dhanwa Kurrey, Aged About 55 Years.
5. Mangalu, S/o Sadhuram Chelak, Aged About 30 Years.
6. Resham, S/o Keju Kurrey, Aged About 55 Years.
7. Ashwani, S/o Gobind Dhritlahare, Aged About 45 Years.
All are R/o Purani Basti, Baloda Bazar, District- Baloda Bazar
Bhatapara (C.G.)
8. State of Chhattisgarh, through Station House Officer, Police
Station City Kotwali, Baloda Bazar, District- Baloda Bazar
Bhatapara (C.G.)

---- **Respondents**

For Petitioner : Mr. Gajendra Sahu, Advocate.
For Respondents : Mr. Raghvendra Verma, G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

11/02/2019

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 preferred against judgment dated 28.11.2018
passed by Judicial Magistrate First Class, Baloda Bazar
(C.G.) in Criminal Complaint Case No. 203/2017, wherein the
said court acquitted all the respondents for commission of
offence under Sections 323/34 IPC, 1860.
3. In the present case, name of the complainant is Motiram (PW-
1). Though, the complainant alleged for commission of offence

under Sections 294, 506 (Part-II) and 323 of IPC, but specific evidence for uttering obscene words in public place and causing annoyance was prima facie not established. Again, it is not established that the complainant was subjected to threatening to kill by any of the respondent, therefore, particular of offence under Section 323/34 of IPC was stated to the respondent by the trial court. Though, it is stated by the complainant Motiram (PW-1) that all the respondents assaulted him that is why his beard removed, but no medical evidence is produced before the trial court for establishing injuries on body of the complainant. It ought to have been established that any injury was really caused to him, but in absence of examination of any of medical expert, it is not established that the complainant sustained injuries.

4. 7 persons have been roped with the charge, but there is no specific statement by the complainant Motiram (PW-1) as to how the incident started and who is the aggressor. In absence of specific evidence, it is not established that any specific respondent had any role in causing injuries. Bald and general statement is not sufficient to establish charge because there is every possibility of conviction of innocent person. When a number of persons have been prosecuted, the prosecution is under obligation to establish criminal intention of all the persons charged, but that is not established in the present case by the evidence of the complainant Motiram. No other evidence is produced before the trial court in support of

statement of Motiram and evidence of Motiram is not sufficient to bring home the guilt.

5. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondents is not established. 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. Accordingly, application for grant of leave to appeal is rejected.
6. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge