

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 535 of 2019**

The State of Chhattisgarh, Through – District Magistrate, Sarguja (C.G.)

---- **Petitioner**

Versus

Krishna Das, S/o Nagendra Das, aged about 46 years, R/o Village-Digma, Nehrunagar, P.S.- Gandhinagar, District- Sarguja (C.G.)

---- **Respondent**

For State/ Petitioner : Mr. A.N. Bhakta, Dy. A.G.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

09/04/2019

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 33 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378 (3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 10.10.2018 passed by Judicial Magistrate First Class, Ambikapur, District- Sarguja (C.G.) in Criminal Case No. 3826/2012, wherein the said court acquitted the respondent for commission of offence

under Sections 294, 506 & 323 of IPC, 1860 for committing the offence against one Amar Pandey on 14.04.2012 at about 21:20 O'clock at Village- Digma near Archana canal, Ambikapur (C.G.)

5. Complainant- Amar Pandey (PW-4) did not depose that the respondent used any obscene word or threatened him. There is no other evidence to say that the respondent used any obscene words or threatened the complainant. In absence of basic evidence, charge under Sections 294 & 506 of IPC is not established.
6. Complainant- Amar Pandey (PW-4) deposed that the respondent assaulted him by some weapon. Inspector- S.L. Chandrakar (PW-2) is investigating officer and he deposed before the trial court (Para 2) that the report was lodged by the respondent against the complainant- Amar Pandey and other witnesses, but that complaint was not enquired into.
7. The trial court opined that the complaint of the respondent is not enquired, therefore, the case of the prosecution is doubtful. If two complaints are lodged before investigating officer, both the complaints should be enquired into to ascertain as to who was the aggressor at the time of incident, but that is not done in the present case, therefore, it cannot be held that the respondent was the aggressor.
8. The trial court has elaborately discussed the entire evidence and recorded finding of acquittal and after reassessing the same, 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. Accordingly, application for grant of leave to appeal is rejected.

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

Sd/-
(Ram Prasanna Sharma)
Judge