

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 537 of 2019**

State of Chhattisgarh: Through The Station House Officer, Police
Station Gandhinagar, District - Surguja (C.G.)

---- **Petitioner**

Versus

1. Manoranjan Mandal, S/o - Puranyachran Gain, Aged about - 58 years, R/o - Digma, Police Station - Gandhinagar, District Surguja, (C.G.)
2. Krishna Mandal, S/o - Mahadev Mandal, Aged about - 48 years, R/o - Digma, Police Station- Gandhinagar, District Surguja, (C.G.)
3. Mihir Mandal, S/o - Manoranjan Mandal, Aged about - 46 years, R/o - Digma, Police Station Gandhinagar, District Surguja, (C.G.)
4. Shushant Mandal, S/o - Manoranjan Mandal, Aged about - 38 years, R/o - Digma, Police Station - Gandhinagar, District Surguja, (C.G.)

---- **Respondents**

For State/Petitioner: Shri Ravish Verma, Government Advocate.

For Respondents : 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 27 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 the judgment dated 15th October, 2018 passed by Judicial Magistrate First Class, Ambikapur, District Surguja (C.G.) in Criminal Case No. 420/2010 wherein the said Court acquitted all the respondents for charge under Section 294, 506 Part-II and 324 of IPC, 1860.
5. In the present case, name of the complainant is Ganesh Mandal (PW-1). Ganesh Mandal (PW-1), Kartik Mandal (PW-2) and Krishna Rai (PW-3) did not depose anything regarding commission of offence of uttering of obscene words or threatening to kill, therefore, there is no evidence to substantiate the charge under Section 294, 506 Part-II of IPC. Though it is alleged by the prosecution that FIR Ex. P-1 is lodged by Ganesh Mandal but Ganesh Mandal PW-1 denied that he lodged FIR Ex. P-1, therefore, lodging of FIR by Ganesh Mandal is not established which is the very basic of the prosecution case. When complainant himself has contradicted the FIR, the trial Court opined that case of the prosecution is under cloud and it would not be safe to record anything regarding commission of offence on the basis of statement of Ganesh Mandal (PW-1) who himself is not stable. It is settled law that it is the quality and not the quantity which has to be weighed. It is settled law that if two views are plausible, the view which is favourable to the accused/respondent, should be accepted.
6. The trial Court has elaborately discussed the entire evidence and after reassessing the same, 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.

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

Sd/-
(Ram Prasanna Sharma)
Judge

Vasant