

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.617 of 2019**

- Mangli Bai W/o Rajendra Kumar Aged About 35 Years Caste - Kenwat, R/o Village Paidhar Kosa Police Station Pamgarh District Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. Ram Yadav (Father Name Is Not Mentioned) Aged About 45 Years R/o Village Bhuigaon Police Station Pamgarh District - Janjgir Chmapa Chhattisgarh.
2. Uttra Yadav S/o Fadal, Aged About 34 Years Caste - Yadav R/o Village Paidhar Kosa Police Station Pamgarh District Janjgir Champa Chhattisgarh.
3. Dharam Lal S/o Fadal, Caste - Yadav R/o Village Paidhar Kosa Police Station Pamgarh District Janjgir Champa Chhattisgarh.
4. Baldev Prasad S/o Fadal, Aged About 36 Years Caste - Yadav R/o Village Paidhar Kosa Police Station Pamgarh District Janjgir Champa Chhattisgarh.
5. Itwari S/o Nanu Yadav, Aged About 32 Years Caste - Yadav R/o Village Paidhar Kosa Police Station Pamgarh District Janjgir Champa Chhattisgarh.

---- Respondents

For the petitioner : Shri FS Khare, Advocate

For the respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****25.4.2019.**

1. Heard on application for grant of leave to appeal under Section 378(4) of CrPC.
2. This petition is preferred against the judgment of acquittal dated 14.12.2018 passed by Judicial Magistrate First Class, Pamgarh, Distt. Janjgir-Champa (CG) in Criminal Case No.320/2015 wherein the said Court acquitted all the five

respondents for the charges under Sections 4 & 5 of the Chhattisgarh Tonahi Pratadna Nivaran Act, 2005 (for short 'the Act 2005') for identifying the petitioner/complainant as black magician on 23.6.2009 at about 6 -7 o'clock in the morning at village Paidhar Kosa, Police Station Pamgarh, Distt. Janjgir-Champa.

3. Though it is deposed by the petitioner/complainant that respondents Ram Yadav identified her as Tonhi and others also uttered the word Tonhi for her, but from the entire evidence, it is not clear as to what was the real act of the petitioner/complainant regarding black magic which prompted the respondents to call her tonhi.

4. For establishing charge under the Act 2005, basic ingredients which required to be proved is any act of the said person regarding magic which caused adverse effect to body of any person. In the present case no one deposed before the trial Court that due to the act of the magic of the petitioner/complainant any one of the locality fell ill or suffered physical or mental injury. Mere using words is not sufficient to establish charges in question unless some actual instance is established against the person concerned. In the present case, no instance was shown by any of the witnesses regarding black magic, they were bald statement which are general in nature and the same is not sufficient to convict all the respondents. The trial Court elaborately discussed the entire evidence and recorded finding of acquittal. This court has no reason to record a contrary finding. It is not a case where

the respondents should be called for full consideration of the matter.

5. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

**Sd/-
(Ram Prasanna Sharma)
JUDGE**

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