

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 873 of 2019**

State of Chhattisgarh: Through Station House Officer, Police
Station- Kota, District - Bilaspur (C.G.)

---- **Petitioner**

Versus

Tirth Ram @ Melu, S/o - Jai Singh Yadav, Aged about - 35 years,
R/o- Village - Karhi, Chowki Belgehana, Police Station - Kota,
District - Bilaspur (C.G.)

---- **Respondent**

For State/Petitioner : Shri Afroj Khan, Panel Lawyer.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

13/05/2019

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 3rd November, 2018 passed by Special Judge, Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short "the SC/ST Act, 1989") Bilaspur (C.G.) in Special

Criminal Case, SC/ST (PA) Act, 1989 No. 20/2018 wherein the said Court acquitted the respondent for charge under Sections 451, 354 and 323 of IPC, 1860 and Sections 3(1) (w-i) (w-ii), 3(2) (va) of the SC/ST Act, 1989/2015.

5. In the present case, the prosecutrix is PW-1. This witness has not deposed that respondent entered into her house in order to commit any offence. This witness has not supported version of the prosecution. As per version of this witness, the respondent did not use any criminal force or assault intend to outrage her modesty. Again she did not depose that respondent did any physical contact and advances involving unwelcome and explicit sexual overtures. Though, she deposed that the respondent threatened her, but actually he did not assault her. There is no evidence regarding any intentionally touching the prosecutrix or used any word of a sexual nature.
6. The trial Court has discussed the entire evidence and recorded finding that the charges are not established. When basic ingredient is not established, it is not a case where the respondent did any act against the prosecutrix knowing that she is a member of scheduled caste/scheduled tribe society, therefore, charges under Section 3(1) (w-i) (w-ii), 3(2) (va) of the SC/ST Act, 1989/2015 is also not established. The other evidence is not supporting version of the prosecution that is why the trial Court recorded finding of acquittal.
7. 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 respondent 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