

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 907 of 2019**

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

---- Petitioner

Versus

1. Augustin Minj, S/o - K. Minj, Aged about - 74 years, R/o – Village- Fundoordihari, Near Ambika Mission, Police Station- Gandhi Nagar, Tahsil – Ambikapur, District - Surguja (C.G.)
2. Amar Singh, S/o - Surendra Singh Rathore, Aged about - 36 years, R/o - Village - Fundoordihari, Near Ambika Mission, Police Station - Gandhi Nagar, Tahsil – Ambikapur, District- Surguja (C.G.)

---- Respondents

For State/Petitioner : Shri Afroj Khan, Panel Lawyer.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

16/05/2019

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 43 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 5th November, 2018 passed by Judicial Magistrate First Class, Ambikapur, District – Surguja (C.G.) in Criminal Case No. 4650/2012 wherein the said Court acquitted the both respondents

for charge under Sections 294, 506 (Part-II) and 323 read with Section 34 of IPC, 1860.

5. In the present case, name of the victims are Narendra Minj and Pushpa Minj. To substantiate the charge, the prosecution examined as many as 8 witnesses. Narendra Minj and Pushpa Minj of eyewitness account to the incident. Rest of the witnesses reached on the spot after the incident.
6. After evaluating the evidence of Narendra Minj (PW-3) and Pushpa Minj (PW-4), the respondents are charged under Section 294 of IPC. The essence of the crime under Section 294 of IPC consists in creating a public nuisance which because of its gravity being of a public nature may endanger public peace. In order to bring home the guilt of the accused for an offence under Section 294 of IPC, the prosecution has to establish that the words uttered were obscene. The test of obscenity is whether the tendency of the matter charges as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.
7. Filthy abuses are not uncommon. It had no more significance than mere platitudinous utterances signifying the enraged state of the person's mind. In the case on hand, the words uttered by respondents are not clear, therefore, the words have no literal significance and it cannot fall in the purview of obscene words. From evidence, it is not established that the offence under Section 294 of IPC is made out.
8. For establishing offence under Section 506 (Part-II) of IPC, it has to be established that the respondents were determined to execute their threat. From statement of witnesses, the only thing which is to

be established is that the certain words were uttered at the time to incident. Mere uttering of words is not sufficient to bring home the guilt, unless the same is uttered with instant execution of threat, but that is not the case here. In absence of determination to execute the threat, the words uttered by respondents are mere fury which have sound, but no substance, therefore, the charge under Section 506 (Part-II) of IPC is also not established.

9. As per report of medical expert, both persons sustained simple injury. From evidence of both the witnesses, place of incident and other activities is contradictory in nature and their version before trial Court is exaggerated what they have stated before the investigating officer. No seizure of article was made from the respondents regarding commission of the offence. Looking into the entire evidence, the trial Court opined that benefit of doubt should be extended to the respondents. It is settled law that if two views are plausible, the view which is favourable to the accused/respondents, should be accepted.
10. The trial Court has elaborately discussed the entire evidence and recorded finding of acquittal. 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.
11. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge