

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 969 of 2019**

State of Chhattisgarh: Through Station House Officer, Police
Station- Farsabahal, District- Jashpur (C.G.) ---- **Petitioner**

Versus

Pravin Kumar Tiwari @ Pammu Tiwari, S/o - Satyanarayan Tiwari,
Aged about - 40 years, Caste - Brahman, R/o - Main Road
Farsabahal, Police Station - Farsabahal, District- Jashpur (C.G.)

---- **Respondent**

For State/Petitioner : Shri Ravish Verma, Government Advocate.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

14/05/2019

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 95 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 22nd September, 2018 passed by Judicial Magistrate First Class, Kunkuri, District – Jashpur (C.G.) in Criminal Case No. 8/2017 wherein the said Court acquitted the respondent for charge under Section 354(A)(iv) of IPC, 1860 for making sexually coloured remark against the complainant Lady Sarpanch (PW-1).
5. In the present case, complainant (PW-1) did not depose that any remark is directly made against her by the respondent. As per

version of the complainant, the remark was made to one Nilesh Kumar Sahu (PW-4). As per version of Nilesh Kumar Sahu (PW-4), the respondent made remark that this witness is enjoying company of Lady Sarpanch (PW-1). In this way the evidence adduced by the prosecution is hearsay in nature because no direct remark was passed against the Lady Sarpanch by the respondent. The case of the prosecution is based on version of Nilesh Kumar Sahu (PW-4), but as the version is second hand statement which is hearsay in nature and trial Court opined that the second hand evidence is not liable to be acted upon in absence of direct and cogent evidence.

6. Finding of the trial Court is based on relevant fact placed before the said Court and same is not based on relevant and extraneous material, therefore, there is nothing to say that the finding of the trial Court is perverse. It is settled law that if two views are plausible, the view which is favourable to the accused/respondent, should be accepted.
7. 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 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