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HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.959 of 2019**

- State Of Chhattisgarh Through - Police Station Lormi, District Mungeli Chhattisgarh.

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Versus

1. Santosh S/o Sahettar Satnami Aged About 38 Years R/o Village Jhingradongari, Police Station Kukdur, District Kabirdham Chhattisgarh.
2. Godawari Bai W/o Dhaniram Aged About 32 Years R/o Village Jhingradongari, Police Station Kukdur, District Kabirdham Chhattisgarh.
3. Shobhnath, S/o Ramkishun Aged About 32 Years R/o Village Nathelapara, Police Outpost Chilfi, Police Station Lormi, District Mungeli Chhattisgarh.
4. Lalit Kumar S/o Harbhajan Satnami Aged About 25 Years R/o Village Gatapar, Police Outpost Chilfi, Police Station Lormi, District Mungeli Chhattisgarh.
5. Birendra Kumar, S/o Santosh Kumar, Aged About 21 Years R/o Village Jhingradongari, Police Station Kukdur, District Kabirdham Chhattisgarh.
6. Mahendra Kumar S/o Santosh Kumar Aged About 32 Years R/o Village Jhingradongari, Police Station Kukdur, District Kabirdham Chhattisgarh.
7. Ashok Kumar (Since Dead) S/o Sahettar, Aged About 32 Years R/o Village Jhingradongari, Police Station Kukdur, District Kabirdham Chhattisgarh.
8. Sahettar, S/o Mansingh, Aged About 65 Years R/o Village Jhingradongari, Police Station Kukdur, District Kabirdham Chhattisgarh.
9. Raju Satnami S/o Khorbahara, Aged About 25 Years R/o Village Jhingradongari, Police Station Kukdur, District Kabirdham Chhattisgarh.
10. Paduman, S/o Budhari, Aged About 28 Years R/o Village Jhingradongari, Police Station Kukdur, District Kabirdham Chhattisgarh.

---- Respondents

For the Petitioner/State : Shri AN Bhakta, Dy. Advocate General

For the respondents : None

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

13.5.2019.

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 38 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition is preferred against the judgment of acquittal dated 23.10.2018 passed by Judicial Magistrate First Class, Lormi, Distt. Mungeli (CG) in Criminal Case No.431/2011 wherein the said Court acquitted all the ten respondents for the charges under Sections 147, 294, 506 Part-II and 323 read with Section 149 of the Indian Penal Code.
5. In the present case date of incident is 30.8.2011 and place of incident is village Cheetapar. It is alleged that the respondents used obscene words and threatened Mohit Das, Seetaram and Rajkumar and assaulted them. All the three complainants and other witnesses are not able to say as to what were the words used by any of the respondents. No specific words were deposed before the trial Court to establish the charges under Section 294 IPC.
6. From the evidence of the prosecution, it is not established that any obscene words were used by the respondents. The essence of the crime under Section 294 of the 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 the 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 not more significance than mere platitudinous utterances signifying the enraged state of the persons' mind. The words which have no literal significance cannot fall in the purview of obscene words. From the evidence it is not established beyond doubt that any obscene words were uttered by the respondents, thus offence under Section 294 IPC is not established against any of the respondents. In absence of any specific words against any specific respondents, charge under Section 294 of the IPC is not established.

8. It is also not established that any of the respondents was determined to execute threat, therefore, any words which is used is mere fury which has only sound and no substance. Therefore, offence under Section 506 Part-II is not established.

9. There is no medical evidence regarding injury on the part of any of the complainants. In absence of medical evidence, it is not established that any of the complainants really sustained injury on their body.

10. Looking to the entire evidence, the trial Court opined that charges levelled against the respondent is not established to the satisfaction of the Court. It is also not established that all of them

made any unlawful assembly to commit any offence. It is settled law that mere presence on the spot is not sufficient to hold that all the persons present on the spot are liable for criminal act. The trial Court elaborately discussed the entire evidence and record finding of acquittal. This Court after reassessing the entire evidence has no reason to record a contrary finding. It is not a case where the respondents should be called for full consideration of the case.

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

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

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