

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1067 of 2019

The State of Chhattisgarh, Through - District Magistrate
Rajnandgaon (C.G.)

---- **Petitioner**

Versus

Vijay Prakash @ Pappu, S/o - Late Indra Kumar Gupta, Aged about
- 35 years, R/o - Korchatola, Police Station Ambagarh Chowki
District - Rajnandgaon (C.G.)

---- **Respondent**

For State/ Petitioner : Mr Ravish Verma, Govt. Advocate
For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

25/06/2019

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 83 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 judgment dated 6th October, 2018, passed by Judicial Magistrate First Class, Ambagarh Chowki, District - Rajnandgaon (C.G.), in Criminal case No.

216/2013, where in the said court acquitted the respondent for charge under Section 294, 506 (Part-II) and 494 of IPC, 1860.

5. In the present case, the prosecution examined as many as six witnesses. Smt. Sugandha Gupta (PW-1) who is complainant, did not depose any words which is used by the respondent. Again, from her statement, it is not clear that the respondent was determined to execute any threat against her. The other witnesses have also not deposed regarding any obscene word of threatening.
6. The respondent is 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 respondent No. 1 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 of IPC, it has to be established that the respondent was determined to execute his threat. From statement of witnesses, the only thing which is 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 respondent are mere fury which have sound, but no substance, therefore, the charge under Section 506 of IPC is also not established.
9. For commission of offence under Section 494 it has to be established that complainant-Smt. Sugandha Gupta married with the respondent, thereafter, he again married as per law and custom prevailing in the community. The complainant herself deposed that she married with the respondent in Court, but she is unable to state in which Court she married with the respondent. No marriage certificate was produced and proved before the trial Court, therefore, the marriage of Smt. Sugandha with the respondent itself is under cloud. The statement of Smt. Sugandha is not establishing that the respondent married with Vimla Anchale. Saptapadi is must for validity of marriage. Though, she deposed that respondent maintained physical relation with Vimla Anchale that is not sufficient to established marriage of the respondent with Vimla Anchale.

10. After going through the record, it is not a case where any interference of this Court is required. The trial court has elaborately discussed the entire evidence and came to conclusion that the charges leveled against the respondent is not established. 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.
11. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge