

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1165 of 2019**

State of Chhattisgarh, Through: Police Station - Ambikapur,
District- Surguja (C.G.)

---- **Petitioner**

Versus

Munsiram Rajwade, S/o - Jaglal Rajwade, Aged about - 55 Years,
R/o- Village - Parsa, Police Station - Ambikapur, District - Surguja
(C.G.)

---- **Respondent**

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

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

26/06/2019

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 160 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 10th August, 2018 passed by Judicial Magistrate First Class, Ambikaur, District - Surguja (C.G.) in Criminal Case No. 3449/2012 wherein the said Court acquitted the respondent for charge under Sections 294, 506 (Part-II) and 324 of IPC, 1860.

5. To substantiate the charge, the prosecution examined as many as 4 witnesses. No one deposed before the trial Court as to what were the words uttered by the respondent. In absence of any word which is uttered by the respondent, the charge under Section 294 of IPC is not established. There is no evidence that any obscene word was used by the respondent, therefore, the charge under Section 294 is not established.
6. Filthy abuses are not uncommon. It has 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 appellant, when specific words uttered by any of the respondent is not clear the charge under Section 294 of IPC is not established.
7. So far as offence under Section 506 (Part-II) IPC is concerned, it is not established that the respondent was determined to execute his threat. Mere words of threat is not sufficient to establish charge under Section 506 (Part-II) IPC. This charge is also specific in nature. Statements of the witnesses are bald and general in nature. When evidence is not against the respondent, general statement is not sufficient to establish charge against the respondent.
8. Though, the injured deposed before the trial Court that the respondent assaulted him by axe on his head and left hand and left shoulder, but no medical evidence is adduced before the trial Court to establish that the injuries were really sustained. No injury

certificate produced before the trial Court, therefore, trial Court opined that in absence of medical evidence, the bald statement of the complainant and other witnesses, is not sufficient to establish the guilt. The view taken by the trial Court is one of the plausible view. It is settled law that if two views are possible, the view which is favourable to the respondent/accused, should be accepted, therefore, 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.

9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge