

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1466 of 2019

- Kanhaiya Lal Agrawal S/o Late Shri Tulsidas Agrawal Aged About 47 Years R/o Village Kasariroad, Police Station Durg District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioner

Versus

1. Sanjay Gupta S/o Krishna Kumar Gupta Aged About 30 Years R/o Baniyapara, Durg, Police Station City Kotwali, Durg, District Durg Chhattisgarh.
2. Ankit Gupta S/o Shri Sanjya Gupta Aged About 22 Years R/o Baniyapara, Durg, Police Station City Kotwali, Durg, District Durg Chhattisgarh.
3. Akash Deep Agrawal S/o Late Shri Amrish Agrawal R/o Baniyapara, Durg, Police Station City Kotwali, Durg, District Durg Chhattisgarh.

---- Respondent

For petitioner : Mr. Arvind Dubey, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

06-11-2019

1. Heard on I.A.No.1 of 2019, which is an application for condonation of delay in filing the instant petition.
2. For reasons mentioned in the application, the application is allowed and delay of three days in filing the instant petition is condoned.

3. Also heard on application for leave to appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973.

4. This petition is directed against the judgement dated 11-3-2019 rendered by the Judicial Magistrate First Class, Durg, in Criminal Case No. 195 of 2011 wherein the said court acquitted the respondents for charge under Section 323 read with Section 34 of the IPC, 1860.

5. In the present case, complainant is Kanhaiya Lal Agarwal (PW/1). As per version of this witness, all the respondents assaulted him by hands and fists and pressed his neck. For commission of offence under Section 323 of the IPC, it has to be established that simple injury was caused on the body of the complainant. No medical expert is examined in support of version of complainant Kanhaiya(PW/1) that he really sustained any injury on his body. In absence of evidence of medical expert, it is not established that complainant sustained injury on his body. One Umendra Divan (PW/2) was examined before the trial court by the complainant but he deposed (para 3) that he has not seen which of the respondents assaulted complainant Kanhaiya. He further deposed that there was gathering of 15 – 20 persons and he is not aware that which member of the assembly was doing what kind of work. Version of this witness is not corroborated by version of the complainant. In absence of medical evidence and looking to the evidence of other witness who is not

supporting the version of complainant, the trial court recorded finding of acquittal.

6. After going through the record, it is not a case where interference of this court is required in the judgement of the trial court. It is not a case where respondents should be called for full consideration of this petition.

7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the instant petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju