

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1334 of 2019

Heeraman Singh Patel, S/o - Late Shri Pyare Lal Patel, Aged about - 32 years, R/o - Village- Niratu, Police Station- Seepat, Tahsil – Bilaspur, Civil and Revenue District - Bilaspur (C.G.).

At Present R/o-Village - Rainki Police Station and Tahsil - Pali, Civil and Revenue District - Korba (C.G.)

---- **Petitioner**

Versus

1. Krishna Lal Kaushik Aged about - 51 years, R/o - Village- Niratu, Police Station- Seepat, Tahsil- Bilaspur, Civil and Revenue District- Bilaspur (C.G.)
2. Mukund Singh, S/o - Pooran Singh, Aged about - 65 years, R/o – Village - Niratu, Police Station- Seepat, Tahsil- Bilaspur, Civil and Revenue District - Bilaspur (C.G.)
3. Santosh Kumar, S/o - Late Lala Ram, Aged about - 65 years, R/o – Village - Niratu, Police Station - Seepat, Tahsil- Bilaspur, Civil and Revenue District - Bilaspur (C.G.)

---- **Respondents**

For State/ Petitioner : Mr Paras Mani Shrivastava, Advocate

For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

17/06/2019

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 190 days in filing the petition is condoned.

3. Also heard on application for grant of leave to appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 29th August, 2018, passed by Judicial Magistrate First Class Bilaspur (C.G.), in complaint case No. 2875/2013, where in the said court acquitted all the respondents for charge under Section 506 (Part-II) of IPC, 1860 and 4/5 of the Tonahi Pratadana Nivarana Adhiniyam, 2005.
5. To substantiate the charge, the complainant side examined Heeramani (PW-1). From the entire evidence, it is not established that any of the respondent was determined to execute their threat. The statement made by the witnesses is bald and general in nature.
6. To substantiate the charge under Section 506 (Part-II) of IPC, it is not established that threat for causing harm is given and the threat giver was adamant to execute the threat at the time of commission of offence but in the present case, there is no evidence that any of the respondent was determined to execute his threat, therefore, evidence adduced against the respondents was not sufficient to establish charge under Section 506 of IPC, 1860.
7. For commission of offence under Section 4 of the Tonahi Pratadana Adhiniyam, 2005, it has to be established that any act of black magic was done by any of the respondents, in the present case, no one deposed before the trial Court that any

act of black magic was committed by any of the respondents, therefore, evidence adduced by above witness was not sufficient to establish the charge.

8. After going through the records, 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 respondents is not established. After reassessing the same, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition.
9. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge