

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1268 of 2018**

State of Chhattisgarh, Through-The Incharge Police Station
GRP Bhilai, District- Durg, (C.G.) ---- **Petitioner**

Versus

1. Santu @ M. Santosh, S/o - Ishwar Rao, R/o - Village- Bada Purena, Chilbain, District- Durg (C.G.)
2. Moni @ M. Mohan Rao, S/o - Ishwar Rao, R/o – Village - Bada Purena Chilbain, District - Durg (C.G.)
3. G. Nagendra Rao, S/o - Lakshman Rao, R/o – Village - Bada Purena Chilbain, District - Durg (C.G.) ---- **Respondents**

For State/ Petitioner : Vijay Bahadur Singh, Panel Lawyer.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****20/03/2019**

1. Heard on I.A. No. 01/2018, 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 109 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 13th October, 2017 passed by Judicial Magistrate First Class, Durg (C.G.) RCC No. 185/2016, wherein the said court acquitted the respondents for commission of offence under Sections 294, 506B, 323, 325/34 of the IPC, 1860.

5. As per version of prosecution, the respondents assaulted Dharmendra Kumar (PW-1), Panchavati (PW-2) and Pramod Singh (PW-3) and during the course of assault they uttered obscene words in public place and threatened the victims to kill. Dharmendra Kumar (PW-1) deposed (para-4) that at the time of incident, there was dark and all the persons who were involved in the scuffle were not identifiable. Panchavati (PW-2) deposed that she reached on the spot when the incident was already taken place therefore, she had no occasion to witness the incident. Though, Pramod Singh (PW-3) deposed that one Moni assaulted him, but the fact remains that when it was dark then how this witness was in a position to identify the person namely Moni.
6. From the evidence of all these three witnesses, it is not clear as to how and where the words uttered by any of the respondents. In absence of actual words, it can not be determined whether the words uttered were obscene or not.
7. 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.

8. 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 appellant, thus offence under Section 294 IPC is not established.
9. Again, there is no evidence that the respondents were determined to execute any threat. The evidence regarding threat is lacking and any words used by the respondents is just fury which is without substance. The trial Court has discussed this aspects of the matter and found that charge under Section 506-II is not established.
10. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondents are not established. After reassessing the entire evidence, 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.
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