

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1048 of 2013**

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

---- **Petitioner**

Versus

1. Raju @ Gourishankar, S/o - Kartik Ram Gandharv, Aged about – 28 years, R/o Paramhans Ward Mungeli, District Bilaspur, Present District Mungeli (C.G.)
2. Suraj Kumar @ Suryakant Gandharv, S/o - Karan Ram Gandharv, Aged about - 24 years, R/o Meghapara, Police Chowki - Chilfi, P.S. Lormi, District Bilaspur Present District Mungeli (C.G.)
3. Pushpendra Chouhan, S/o - Shatruhan Chouhan, Aged about - 31 years, R/o Darrabhata, P.S. Baradwar, District-Janjgir-Champa (C.G.)

---- **Respondents**

For State/Petitioner : Shri A.N. Bhakta, Dy. A.G.

For Respondents : Shri Chandra Bhushan Kesharwani, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

11/04/2019

1. Heard on I.A. No. 01/2013, 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 395 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 directed against the judgment dated 30th July, 2012 passed by Sessions Judge, Korba (C.G.) in Sessions Trial

No. 43/2009 wherein the said Court acquitted all the respondents for charge under Section 392 read with Section 397 of IPC, 1860 for committing robbery at Gramin Bank, Bhaisma on 23.10.2008 at about 14:00-15:00 hours to the tune of Rs. 65,295/-.

5. In the present case, Lata Namdev (PW-1), Bharat Singh Dhruv (PW-6) have been examined as witnesses of the incident but from their evidence it is not established that any of the respondent is culprit for commission of offence. As per their version two boys entered into bank who covered their face by hand-kerchief, that is why they were not able to identify them. Though Tahsildar M.R. Gayakwad (PW-7) deposed before the trial Court regarding identification parade but the persons namely Lata Namdev (PW-1) and Bharat Singh Dhruv (PW-6) who have identified the culprit have not deposed before the trial Court that they were able to identify any of the respondents, therefore, it is not established by direct evidence that the respondents are the persons who entered into bank at the time of incident.
6. Though the case of the prosecution is based on the discovery statement of respondents and seizure of currency notes but same is not identified to be currency notes which is robbed from Rural Bank of Bhaisma.
7. The trial Court has elaborately discussed the entire evidence and recorded that no offence is established against respondents.
8. After reassessing the entire evidence, this Court has no reason to record contrary finding and it is not a case where respondents 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

Vasant