

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1864 of 2019

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

---- Petitioner

Versus

Saurabh Shrivastava, S/o- R.S. Shrivastava, Aged about- 31
years, R/o- Pratappur Road, Ambikapur, District- Surguja
(C.G.)

---- Respondent

For State/ Petitioner : Mr. Ishwar Jaiswal, P.L.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

11/11/2019

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing of instant 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 208 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 26th September, 2018 passed by Chief Judicial Magistrate, Ambikapur, District- Surguja (C.G.) in Regular Criminal Case

No. 2979/2011, wherein, the said Court acquitted the respondent for charge under Section 294 and 506 Part-B of the IPC, 1860.

5. In the present case, the complainant is Iturani Mandal (PW-5). As per her statement complainant, she was working in E-Service Center at Collectorate premises, Ambikapur. One Deepak Pandey, who was superior officer working in the same Office and on the date of incident, he asked her to complete the work before leaving the office. It is not clear from her statement whether she completed the work or not before leaving the office. As per version of this witness Deepak Pandey clicked the photo of complainant and started taking photos from mobile, that is why some altercation took place. Though, she deposed before the Trial Court that some obscene words used by the respondent against her but no one supported her version before the Trial Court. The Case is based on sole statement of this complainant and looking to her altercation with person working with him including the respondent. The Trial Court opined that it is not safe to act on the statement of this complainant and recorded finding of acquittal.
6. From the statement of the complainant, it is not established that any threat was given to her by the respondent. View taken by the Trail Court is one of the plausible view and it is settled law that if two views are possible, the view which is in favour of the respondent, should be preferred.

7. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondent is not established. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition.
8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge