

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1857 of 2019

1. State of Chhattisgarh, Through- Police Station, AJK Janjgir,
District – Janjgir-Champa (C.G.) **----- Petitioner**

Versus

1. Sourabh Rathore @ Pranshu Rathore, S/o- Sanjay Rathore,
Aged about- 19 years, R/o- Ward No. 12 Janjgir, Police
Station, Janjgir, District – Janjgir-Champa(C.G.)
2. Rahul Nemi, S/o- Raman Lal Nemi, R/o- Ward No. 12 Janjgir,
Police Station, Janjgir, District - Janjgir-Champa (C.G.)

---- Respondents

For State/ Petitioner : Mrs. Smita Jha, 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 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 40 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 the judgment dated 14th March, 2019 passed by Special Judge (Atrocity), District-

Janjgir- Champa (C.G.) in Special Sessions Case No. 02/2019, wherein the said Court acquitted the respondents from the charge punishable under Sections 3 (1) (s) of the [Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (amended Act 2015)].

5. In the present case, complainant is Pushpendra Gadhwel (PW-1). As per version of this witness he was present in annual function of Jai Bharat School, Janjgir and where the respondents objected the Pushpendra Gadhwel (PW-1) that why he stands near the gate, that is why some scuffle took place and in that scuffle head of Pushpendra Gadhwel (PW-1) was dashed against the gate. He further, deposed that respondents threatened him to kill. Gangaprasad (PW-2) deposed on the same line.
6. Looking to the entire evidence, it is not a case where the complainant has been insulted or intimidated with intend to humiliate him because he is member of Scheduled Castes. Incident took place only when the complainant was standing near the gate and that was objected by the respondents.
7. It is not a case where anything is done voluntary against the complainant. Again, it is not a case, as per evidence regarding insult of the complainant on the basis of caste.
8. For commission of offence of intimidation, it has to be established that respondents were determined to execute his threat on the spot. In the present case, there is nothing to show that appellant was determined to execute his threat. The

words uttered by the respondents is mere fury which has sound but no substance. For commission of offence substance has to be established, which is not established before the Trial Court that is why the Trial Court recorded finding of acquittal.

9. 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.
10. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge