

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1941 of 2019

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

---- Petitioner

Versus

- Saffique Khan, S/o- Munna @ Vajir, Aged about- 35 years, R/o- Village- Parradand, Ambikapur, Police Station- Ambikapur, District- Surguja (C.G.)

---- Respondent

For State/Petitioner : Shri Ishwar Jaislwa, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

28/11/2019

1. Heard on I.A. No. 01/2019, which is an application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, delay of 258 days in filing the instant 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 23rd August, 2018 passed by Judicial Magistrate First Class, Ambikapur, District- Surguja (C.G.) in Criminal Case No. 594/2009 wherein the said Court acquitted the respondent for charge under Sections 294 and 324 read with Section 34 of IPC, 1860 for using obscene words in public place and causing simple injury to Gulam Rasul by knife on 25th April, 2005 at about 07:30 am at village- Parradand.

5. In the present case, complainant Gulam Rasul was not examined before the trial Court who is victim of the case as he died before the examination before the trial Court. No medical expert was examined to substantiate that any injuries were found on the body of Gulam Rasul. Though one Mohammed Niyaz Kadri (PW-1) deposed that respondent assaulted Gulam Rasul by knife due to which there was cut injury in the lip of Gulam Rasul. The trial Court opined that in absence of evidence of victim and in absence of supportive piece of evidence, i.e. medical evidence, statement of Mohammed Niyaz Kadri (PW-1) cannot be acted upon to convict the respondent. Finding of the trial Court is one of the plausible view. It is settled law that if two views are possible, the view which is favourable to the respondent/accused should be accepted, therefore, this Court has no reason to record contrary finding regarding commission of offence. It is not a case where respondent should be called for hearing again of this petition.
6. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge