

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2002 of 2019**

- State of Chhattisgarh, through- Police Station Batoli, Sitapur, District- Surguja (C.G.) **---- Petitioner**

Versus

- Jirjhodan Ghashi, S/o - Sampet Ghashi, Aged about- 50 years, R/o- Village Tedga, Police Station- Batoli, District- Surguja (C.G.) **---- Respondent**

For State/Petitioner : Smt. Smita Jha, Panel Lawyer.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board**16/10/2019**

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, delay of 31 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. On due consideration, leave is granted.
5. This petition is preferred against the judgment dated 15th April, 2019 passed by Judicial Magistrate First Class, Sitapur (C.G.) in Criminal Case No. 515/2013 wherein the said Court acquitted the respondent for charge under Sections 294, 325 and 506 Part-II of IPC 1860.
6. In the present case, the sole eyewitness of the incident is Dhelki Bai (PW-3) who is the complainant. From her statement there is nothing to say that any obscene word was used by the respondent in public place which caused annoyance to her. Again there is no evidence that appellant was willing to execute any

threat on the spot. The statement of threatening on this count is shaky in nature, therefore, from her entire evidence offence under Sections 294 and 506 Part-II of IPC is not established.

7. Complainant is wife of the respondent. From statement of Dhelki Bai (PW-3) who is the wife of the respondent, it is clear that relationship between both sides is not normal. Dholki Bai (PW-3) deposed (Para-4) that respondent is not maintaining her that is why she lodged report, it means this witness has grudge against the respondent, therefore, there is possibility of implicating him in a charge as mentioned above.
8. The trial Court has elaborately discussed the entire evidence and recorded finding that evidence of Dhelki Bai (PW-3) is not sterling quality and it is not safe to base conviction on her statement. Looking to the evidence and relation between the parties the reasoning given by the trial Court is one of the plausible view. It is the settled law that if two views are plausible, the view which is in favour of the accused/respondent should be preferred.
9. In view of the above, it is not a case where interference of this Court is required in the judgment of the trial Court. It is not a case where respondent should be called for full consideration of this petition because he already suffered a long term in trial. It is not a case where leave to appeal should be granted.
10. Accordingly, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge