

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2034 of 2019

State of Chhattisgarh, Through- The Police Station Ambikapur,
District- Surguja (C.G.) **---- Petitioner**

Versus

1. Ravi Soni, S/o - Ganesh Soni, Aged about- 38 years, R/o - Company Bajar, Ambikapur, Police Station Ambikapur, District- Surguja (C.G.)
2. Jagat Soni, S/o - Ganesh Soni, Aged about- 40 years, R/o - Company Bajar, Ambikapur, Police Station Ambikapur, District- Surguja (C.G.)
3. Raju Soni, S/o - Gulab Soni, Aged about- 35 years, R/o - Company Bajar, Ambikapur, Police Station Ambikapur, District- Surguja (C.G.)
4. Santosh Dhar Dubey, S/o - Hiradhar Dubey, Aged about- 37 years, R/o - School Road, Company Bazarpara, Ambikapur, Police Station Ambikapur, District- Surguja (C.G.)

---- Respondents

For State/petitioner	:	Mr. Ravish Verma, Govt. Advocate
For Respondent	:	None

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

14/10/2019

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 241 days in filing the petition is condoned.
3. 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 12th September, 2018 passed by Learned Judicial Magistrate First Class, Amikapur, District- Sarguja (C.G.), in Criminal Case No. 3991/2010, where in, the said court acquitted the respondents for charge under Sections 341, 506 (Part-II), 294, 323 read with 34 of IPC, 1860.
5. In the present case, the Trial Court issued summons to the witnesses of the prosecution and also issued non-bailable warrant, but it was returned unserved that is why no witnesses were examined before the trial Court from the prosecution side, therefore, in absence of evidence the Trial Court recorded finding of acquittal.
6. Learned counsel for the State submits that charges were framed against respondents on 6th August, 2018 and judgment was delivered on 12th September, 2018, therefore, opportunity for adducing evidence should be given to the petitioner and case be remanded back to the Trial Court for consideration of the case.
7. In view of this Court, the Trial Court issued warrant to the witnesses and warrant returned unserved that is why no one examined before the trial Court, therefore, it can not be said that no opportunity was given to the petitioner to adduce the evidence.
8. Looking to the nature of the case, it would not be appropriate for this Court to remand the case when petitioner side already got opportunity for adducing evidence.

9. After going through the records, 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