

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 855 of 2017**

- State of Chhattisgarh, through- District Magistrate, District- Bastar (C.G.) ----- **Petitioner**

**Versus**

- Deepak Mishra, S/o- Late Anju Mishra, Aged about- 35 years, Caste- Bramhan, Occupation- Agriculture, R/o- Village- Soutpur, Aanwarabhata, Police Station- Karpawand, District- Bastar, (C.G.) ----- **Respondent**

For State/Petitioner : Shri Raghvendra Verma, Govt. Advocate.

For Respondent : None.

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**Hon'ble Shri Justice Ram Prasanna Sharma**  
**Order on Board**

**21/11/2019**

1. Heard on I.A. No. 01/2017, 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 39 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 directed against the judgment dated 13<sup>th</sup> February, 2017 passed by Sessions Judge {Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989/2015} (for short, "the Act, 1989/2015") Bastar, Place- Jagdalpur (C.G.) in Special Sessions Case No. 12/2016 wherein the said Court acquitted the respondent for charge under Sections 294, 323, 506 and 354 of IPC, 1860 and under Section 3(1)(b)(i) of the Act, 1989/2015.

5. In the present case, criminal act is committed against the complainant namely Smt. Kausulya (PW-1). The other witnesses are supportive in nature, therefore, evidence of complainant is the foundation of prosecution case. Though complainant PW-1 deposed before the trial Court that appellant dragged her and uttered some obscene words against her, but it appears from document Ex.D/1 that there was dispute between husband of complainant and the appellant for payment of wages. From document Ex. D/6 this issue was settled in a meeting convened in village and as per Ex.D/6, the complainant herself stayed with the appellant. Ex. D/6 is earlier statement of complainant stated before investigation officer in which she stated that she is living separately from her husband and her husband asked her to stay with appellant. She stated before the investigation officer that she stayed in the house of the appellant and she is not willing to stay with husband. Looking to the act of the complainant staying in the house of appellant the trial Court opined that statement of complainant is contradictory in nature and same is not dependable to arrive at any conclusion.
6. After going through the record, this court has no reason to record contrary finding what is recorded by the trial Court which is based on document. It is not a case where respondent should be called for hearing again for full consideration of this petition.
7. Accordingly, the criminal petition stands dismissed at motion stage itself.

**Sd/-**  
**(Ram Prasanna Sharma)**  
Judge