

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 2104 of 2019**

The State of Chhattisgarh, through- District Magistrate, Durg (C.G.)

---- **Petitioner**

**Versus**

Adalat @ Shishu Pal, S/o Chhatturam Chandel aged about 32 years,  
R/o Village- Khagari, P.S.- Nandini Nagar, District- Durg (C.G.)

---- **Respondent**

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For State/ Petitioner : Mr. Ravish Verma, Govt. Advocate.

For Respondent : None.  
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**Hon'ble Shri Justice Ram Prasanna Sharma**

**Order On Board**

**22/10/2019**

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 56 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 judgment dated 14.03.2019 passed by Judicial Magistrate First Class, Durg (C.G.) in RCC No. 7848/2015, wherein the said court acquitted the respondent for commission of offence under Section 294, 323 & 506 (Part-II) of IPC, 1860.
5. To substantiate the charge, the prosecution examined as many as four witnesses. Mangal Ram (PW-1), Jayanti (PW-2), Top

Singh (PW-3) and Santosh Kumar (PW-4) have not stated as to what were the real words used by the accused/ respondent at the time of incident which may be termed as obscene words.

6. The respondent is charged under Section 294 of IPC, the essence of the crime under Section 294 of IPC consists in creating a public nuisance which because of its gravity being of a public nature may endanger public peace. In order to bring home the guilt of the accused for an offence under Section 294 of IPC, the prosecution has to establish that the words uttered were obscene. The test of obscenity is whether the tendency of the matter charged as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.
7. Filthy abuses are not uncommon. It had no more significance than mere platitudinous utterances signifying the enraged state of the person's mind. In the case on hand, the words uttered by the respondent is not clear, therefore, the words have no literal significance and it cannot fall in the purview of obscene words. From evidence, it is not established that the offence under Section 294 of IPC is made out.
8. The charge under Section 506 (Part-II) of IPC is also specific in nature. It will apply to a person who intentionally threatens another with intend to cause a person to do any act which is legally bound to do or intimidate to do any act with that person is legally entitled to do. For establishing offence under Section 506 (Part-II) of IPC, it has to be established that the respondent was determined to execute his threat on the spot. From the evidence,

it is not established that any threat to kill Mangal Ram and Jayanti was given by the respondent and he was determined to execute his threat on the spot, therefore, the charge under Section 506 (Part-II) is also not established.

9. Though, Mangal Ram and Jayanti deposed before the trial court that the respondent assaulted Mangal Ram on nose by fist and turned right hand of Jayanti, but no medical expert was examined in support of their version. In absence of evidence of medical expert, it cannot be held that any injury was really caused by the respondent to Mangal Ram and Jayanti, therefore, the charge under Section 323 of IPC is also not established.
10. The trial court elaborately discussed the entire evidence and recorded finding of acquittal. The finding recorded by the trial court is one of the plausible view and it is settled law that if two views are possible, the view which is favourable to the accused/respondent, should be accepted. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
11. Consequently, the petition stands dismissed at motion stage itself.

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