

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2062 of 2018

State of Chhattisgarh, Through - Police Station Lormi, District -
Mungeli (C.G.)

---- Petitioner

Versus

1. Kalyan Yadav, S/o – Mangal, Aged about - 44 years, R/o - Village Lalpurkala, Police Station Lormi, District - Mungeli (C.G.)
2. Ramkumar, S/o - Jivan Ram Kashyap, Aged about - 48 years, R/o - Village Lalpurkala, Police Station Lormi, District – Mungeli (C.G.)
3. Munna@ Shivkumar, S/o – Hagru, Aged about - 50 years, R/o - Village Lalpurkala, Police Station Lormi, District - Mungeli (C.G.)
4. Ramgopal, S/o - Kapilram Kashyap, Aged about - 28 years, R/o - Village Lalpurkala, Police Station Lormi, District - Mungeli (C.G.)
5. Pradip Kashyap, S/o – Kapilram, Aged about - 35 years, R/o - Village Lalpurkala, Police Station Lormi, District - Mungeli (C.G.)
6. Ranu Kashyap, S/o – Ramakant, Aged about - 28 years, R/o - Village Lalpurkala, Police Station Lormi, District - Mungeli (C.G.)
7. Tulsiram, S/o - Shivsahay Kashyap, Aged about - 60 years, R/o - Village Lalpurkala, Police Station Lormi, District - Mungeli (C.G.)
8. Rajkumar, S/o - Madan Lal Kashyap, Aged about -40 years, R/o - Village Lalpurkala, Police Station Lormi, District - Mungeli (C.G.)

---- Respondents

For State/ Petitioner	: Shri A. N. Bhakta, Dy. Advocate General
For Respondent	: None

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

08/05/2019

1. Heard on I.A. No. 01/2018, 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 45 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 30th April, 2018 passed by Special Judge [Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (amended Act 2015)], Lormi, District - Mungeli (C.G.) in Special Case No. 14/2017, wherein the said Court acquitted all the respondents for commission of offence under Sections 147, 294, 506-B, 342/149 of the IPC, 1860 & under Sections 3(1) (e) and 3(1) (s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, Amended Act, 2015.
5. In the present case, two persons are victim namely Surekha Kashyap (PW-1) and Gowardhan Singh (PW-5). Both the witnesses have not deposed before the trial Court that any of the respondent used obscene words against them. Though, Surekha Kashyap (PW-1) deposed that respondent threatened them to kill, but version of these witnesses is general and bald statement. It is not clear from the statement as to who really uttered the word of threatening. The charge under Section 506 Part-II should be specific against said

persons and that should be uttered by specific person, but that is not the case here. It is also not clear from the evidence that any of the respondent was determined to execute the threat. Unless no one is determined to execute the threat, the words uttered by him is mere fury which is only sound, but of no substance, therefore, charge under Sections 506 (Part -II) and 294 of IPC is not established.

6. From the evidence, it is clear that meeting was convened at Gram Panchayat building at village – Lalpur and same was convened for water supply, availability of accommodation and sanitary work. When meeting was convened by Panchayat and persons gathered there on invitation of Panchayat, the gathering cannot be turned as unlawful gathering because it is not convened or gathered for any unlawful purpose. From the evidence, it is not clear as to who really closed the door to confine the people in room of the Panchayat building, therefore, in absence of incriminating circumstances charge under Section 147 and 342 read with Section 149 of IPC is not established.
7. The meeting was convened for resolving issues of the village regarding water supply and sanitary work, therefore, the same is not called on the basis of caste. It was general meeting and matter of general importance have been taken in the said meeting, therefore, it cannot be said that any of the respondent had intention to insult or abuse anyone on the basis of caste.

8. The trial court has elaborately discussed the entire evidence and came to conclusion that the charges leveled against the respondents are not established. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition.
9. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge