

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1142 of 2017**

1. Kapur Chand Dewangan S/o Late Shri Hiralal Dewangan Aged About 61 Years R/o In Front Of S S Plaza, Post- Korba, Police Station- City Kotwali, Tehsil And District Korba, Chhattisgarh.
2. Raj Kiran Dewangan S/o Kapur Chand Dewangan Aged About 35 Years R/o In Front Of S S Plaza, Post- Korba, Police Station- City Kotwali, Tehsil And District Korba, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through District Magistrate Korba, District Korba, Chhattisgarh.
2. Manan Dewangan S/o Shri Chandramani Dewangan, Aged About 36 Years By Caste- Dewangan, R/o Kosa House, Power House Raod, Korba, Tehsil And District Korba, Chhattisgarh.
3. Hemant Dewangan S/o Shri Chandramani Dewangan, Aged About 35 Years By Caste- Dewangan, R/o Kosa House, Power House Raod, Korba, Tehsil And District Korba, Chhattisgarh.

---- Respondents

For the Petitioners	: Shri Sarfaraj Khan, Advocate
For Respondent No.1/State	: Smt. Subha Shrivastava, Panel Lawyer
For other Respondents	: None present

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****16.5.2019.**

1. Heard on IA No.01 for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, the same is allowed and the delay of 42 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.

4. This petition is preferred against the judgment dated 30.6.2017 passed by Additional Sessions Judge, Distt. Korba (CG) in Criminal Appeal No.60/2013 wherein the said Court acquitted respondents 2 & 3 for the charges under Sections 427/34 IPC.

5. Respondents 2 & 3 along with one co-accused Sharad charge sheeted for offence under Section 427, 294 and 506 Part-II IPC before the Court of Judicial Magistrate First Class. After recording evidence, the said Court opined that charge under Section 294 and 506 Part-II IPC are not established against any of the persons charged for the offence, but convicted respondents 2 & 3 and co-accused Sharad for offence under Section 427/34 IPC and sentenced them to pay fine of Rs.2,000/- each. Co-accused Sharad did not file any appeal against the judgment. Respondents 2 & 3 filed appeal before the Court of Additional Sessions Judge, Korba and after marshaling of the evidence, the said Court acquitted respondents for the charges under Section 427 IPC.

6. To substantiate the charges the prosecution has examined Kapoor Chand Dewangan (PW-1), Raj Kiran Dewangan (PW-2) and Assistant Sub Inspector Bhesh Das (PW-3). Kapoor Chand Dewangan (PW-1) deposed before the trial Court that Sharad threw a piece of bricks on his Maruti Alto Car which damaged his car. This witness specifically deposed before the trial court that respondents 2 & 3 were standing idle. The complainant himself did not depose any criminal act against respondents 2 & 3. There is no evidence to show that these respondents acted in

furtherance of the act of co-accused Sharad, therefore, the First Appellate Court recorded finding that charge under Sections 427 IPC is not established against respondents 2 & 3. After going through the record, this Court has no reason to record a contrary finding. This not the case where the respondents should be called for full consideration of the case.

7. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE