

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2166 of 2019

State of Chhattisgarh, Through- Its Station House Officer,
Police Station, Ambikapur District - Surguja (C.G.)

---- Petitioner

Versus

1. Bharat Uraon, S/o- Rajan Uraon, Aged about- 26 years, R/o- Village Mendrakala, Gadaipara, Police Station Ambikapur District - Surguja (C.G.)
2. Dashrath Uraon, S/o- Shivmangal Uraon, Aged about- 30 years, R/o- Village Mendrakala, Gadaipara, Police Station Ambikapur District - Surguja (C.G.)
3. Rajan Ekka, S/o- Baldev Ekka, Aged about- 60 years, R/o -Village Mendrakala, Gadaipara, Police Station Ambikapur District - Surguja (C.G.)
4. Nanuram, S/o- Shyamlal Uraon, Aged about- 22 years, R/o- Village Mendrakala, Gadaipara, Police Station Ambikapur District - Surguja (C.G.)
5. Alam Sai, S/o- Kumbh Sai Uraon, Aged about- 62 years, R/o- Village Mendrakala, Gadaipara, Police Station Ambikapur District - Surguja (C.G.)

---- Respondents

For State/ petitioner : Mr.Ravish Verma, G.A.

For Respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

07/11/2019

1. Heard on I.A No.1/2019, which is an application for condonation of delay in filing the instant 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 133 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 the judgment dated 25th January, 2019 passed by the Learned Judicial Magistrate First Class, Ambikapur, District- Sarguja (C.G.) in Criminal Case No. 2172/2012, wherein the said Court acquitted the respondents from the charges punishable under Sections 147, 294, 506 Part-II, 323 read with Section 149 of the Indian Penal Code, 1860.
5. In the present case, the victim is Kalam Ekka (PW-6), he did not depose regarding actual obscene words uttered by any of the respondents, the other witnesses have also not deposed regarding actual obscene words which is uttered by any of the respondents in public place and causing annoyance, therefore, there is absolutely no evidence to establish the charge under Section 294 of IPC.
6. Again from the evidence of Kalam Ekka (PW-6), there is nothing to say that any threat was given by any of the respondents, other witnesses have also not deposed regarding threat therefore, there is no evidence to establish the charge under Section 506 Part-II.
7. Kalam Ekka (PW-6) deposed that respondents assaulted him and his wife but his wife namely Rameshwari (PW-8) deposed that she has not been assaulted by any of the respondents. Looking to the contradictory versions of the both witnesses Trial Court opined that it is not safe to act

upon the statements of the Kalam (PW-6). As per opinion of Dr. Rojlin R. Ekka (PW-2) the injuries found in the body of the Kalam is simple in nature which is caused by hard and blunt object. Technically the injury falls within the mischief of a Section 323 of IPC which is non-cognizance offence. As per Section 155(2) of the Code of Criminal Procedure, 1973 no police officer shall investigate a non-cognizable case without the order of a magistrate of the first or second class having power to try such case or send the same for trial.

8. In the present case looking to the contradictory statements of material witnesses, the Trial Court recorded finding of acquittal. After going through the records this Court has no reason to record the contrary finding. Finding of the Trial Court is one of the plausible view, it is settled law that if two views are possible, the view which is favourable to the respondent/accused, should be accepted. 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, this petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge