

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1545 of 2017**

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

Versus

1. Ashok Giri, S/o- Mahendra Giri, Aged about- 50 years,
2. Ramakant Giri, S/o- Shri Mahendra Giri, Aged about- 42 years,
3. Devendra Giri, S/o- Shri Mahendra Giri, Aged about- 54 years,
4. Sunil Giri, S/o- Shri Mahendra Giri, Aged about- 40 years,

All respondents are R/o- Kosrangi, P.S.- Mahasamund, District- Mahasamund (C.G.) ----- **Respondents**

For State/Petitioner : Shri Aman Kesharwani, Panel Lawyer.

For Respondents : Shri Sumit Shrivastava, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****05/11/2019**

1. Heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This petition is directed against the judgment dated 8th December, 2016 passed by Judicial Magistrate First Class, Mahasamund (C.G.) in C.I.S. Registration No. 542/2012 wherein the said Court acquitted the respondents for charge under Sections 294, 323 read with Section 34 and 506 Part-I of IPC, 1860.
3. In the present case, the name of the complainant is Narottam Tandan (PW-2). This witness has not deposed before the trial Court, the real words uttered by any of the respondent which may be termed as obscene words. For commission of offence under Section 294 of IPC, 1860 the words uttered by the respondents have not been mentioned in the trial Court, offence under Section 294 is not established. This Court has no reason to record

contrary finding. Though the complainant deposed before the trial Court that respondents assaulted him by fist and leg and he suffered bleeding, but the medical evidence of Dr. U.N. Diwan (PW-3) is not supported by the version of the complainant and he did not find any injury on the body of the complainant or any bleeding was caused to him, therefore, version of the complainant was not dependable for commission of offence under Section 323 of IPC. Again there is no evidence of threatening and there is no evidence that any of the respondent was determined to execute the threat. Any word uttered during altercation is mere fury which has sound, but no substance. In absence of substance, commission of offence under Section 506 Part-I of IPC is also not made out.

4. In view of the above, it is not a case where interference of this Court is required in the judgment of the trial Court. It is not a case where respondents should be called for full consideration of this petition.
5. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge