

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2324 of 2019**

- State of Chhattisgarh, through- Station House Officer, Police Station- Ajk, Durg, District- Durg (C.G.) ----- **Petitioner**

Versus

1. Vikas Kumar Verma, S/o- Thakur Ram Verma, Aged about- 25 years, R/o- Village- Santra, P.S.- Patan, District- Durg (C.G.)
2. Thakur Ram Verma, S/o- Late Asharam Verma, Aged about- 55 years, R/o- Village- Santra, P.S.- Patan, District- Durg (C.G.)
3. Jai Prakash @ Jaikey Verma, S/o- Lalaram Verma, Aged about- 22 years, R/o- Village- Gogaon, Sukhramnagar, Ward No. 3, Raipur, District- Raipur (C.G.)
4. Bhushan Kumar Verma, S/o- Parshuram Verma, Aged about- 31 years, R/o- Village- Godhhi, P.S.- Nandni, District- Durg (C.G.)

---- Respondents

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

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****28/11/2019**

1. Heard on I.A. No. 01/2019, which is an application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, delay of 122 days in filing the instant 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 2nd March, 2019 passed by Special Judge {Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989/2015} (for short 'the Act, 1989/2015'), Durg (C.G.) in Special Case No. 09/2018 wherein the said Court acquitted all the respondents for charge under Section 3(2)(x) of the Act, 1989/2015.

5. In the present case, one Khubchand Thakur is the complainant.

To substantiate the charge, the prosecution examined as many as 6 witnesses. No one proved the caste certificate of the complainant to establish that he is a member of Scheduled Caste or Scheduled Tribe. In absence of certificate, it is not proved that the complainant is a member of Scheduled Caste or Scheduled Tribe.

6. From the statement of Khubchand Thakur (PW-1), Ramchand Thakur (PW-2), Bhupesh Sahu (PW-3) and Devanand Thakur (PW-4) it is not established that appellant is not a member of Scheduled caste or scheduled tribe. For offence under the Act, 1989 it has to be established that persons charged with the offence or that Act is not a member of scheduled castes or scheduled tribes, therefore, it is not the case which is based on castes and application of Act, 1989. The trial Court after elaborately discussing the entire evidence recorded finding that the basic ingredients of the offence is not established against the respondents. 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 respondents/accused should be accepted, therefore, this Court has no reason to record contrary finding regarding commission of offence. It is not a case where respondents should be called for full consideration of this petition.

7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge