

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2382 of 2019

State of Chhattisgarh Through Its Station House Officer, Police
Station Darima, District - Surguja, Chhattisgarh. ---- **Petitioner**

Versus

Dhaneshwari Yadav S/o Lalman Yadav Aged About 51 Years R/o
Village Karji, Police Station Darima, Tehsil Ambikapur, District -
Surguja, Chhattisgarh .---- **Respondent**

For State/ Petitioner : Mr. Raghvendra Verma, G.A.
For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

05/12/2019

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing of 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 124 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 25/02/2019 passed by Judicial Magistrate First Class, Ambikapur, District-Surguja (C.G.), in Criminal Case No. 6261/2013, wherein the

said court acquitted the respondent for charge under Sections 294, 506 part-II and 323 of IPC, 1860.

5. Allegation against the respondent is that on 17th July, 2013 at 14:30 p.m. respondent uttering obscene words in public place against the appellant to cause annoyance, threatening him to kill and for causing voluntary and simple injury to the said complainant.
6. In the present case, name of victim is Jayant Kumar (PW-1). This witness has not stated the real uttered words by the respondent at the time of incident for commission of offence under Section 294 of IPC.
7. The respondent is charged under Section 294 of IPC, the essence of the crime under Section 294 of IPC consists in creating a public nuisance which because of its gravity being of a public nature may endanger public peace. In order to bring home the guilt of the accused for an offence under Section 294 of IPC, the prosecution has to establish that the words uttered were obscene. The test of obscenity is whether the tendency of the matter charges as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.
8. Filthy abuses are not uncommon. It had no more significance than mere platitudinous utterances signifying the enraged state of the person's mind. In the case on hand, the words uttered by respondent is not clear, therefore, the words have no literal significance and it cannot fall in the purview of

obscene words. From evidence, it is not established that the offence under Section 294 of IPC is made out.

9. For establishing offence under Section 506 Part-II of IPC, it has to be established that the respondent was determined to execute his threat. From statement of witnesses, the only thing which is established is that the certain words were uttered at the time to incident. Mere uttering of words is not sufficient to bring home the guilt, unless the same is uttered with instant execution of threat, but that is not the case here. In absence of determination to execute the threat, the words uttered by respondent are mere fury which have sound, but no substance, therefore, the charge under Section 506 Part-II of IPC is also not established. Therefore, the trial Court recorded finding of acquittal for the said offence and this Court has no reason to take contrary view.
10. As per prosecution, respondent caused voluntary and simple injury to the victim, it is also considered that respondent also sustained injury and she was medically examined (Para-10 of PW-1). The injury of respondent is not explained by the complainant therefore, the trial Court opined that it is not a case of voluntary causing injury.
11. View taken by the trial Court is one of the plausible view, if two views are possible the view which is in favour of respondent/accused should be preferred.
12. In view of the legal position it is a case where interference of this Court is required with the judgment of the trial Court. It is

also not a case where respondent should be called for hearing again for full consideration of this petition.

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

Sd/-
(Ram Prasanna Sharma)
Judge

N.Mohle