

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2414 of 2018**

State of Chhattisgarh, Through: Station House Officer, Police Station
City Kotwali Baloda Bazar, District Baloda Bazar- Bhatapara (C.G.)

---- **Petitioner**

Versus

Santosh @ Aalam, S/o Bihari Satnami, Aged About 27 Years, R/o
Village- Pangaon, City Kotwali, District Baloda Bazar-Bhatapara
(C.G.)

---- **Respondent**

For State/ Petitioner : Mr. Ravish Verma, Govt. Advocate.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

11/01/2019

1. As the default has already been removed, the default pointed out by the Registry is overruled.
2. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
3. 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 145 days in filing the petition is condoned.
4. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
5. This petition is preferred against judgment dated 05.03.2018 passed by Judicial Magistrate First Class, Baloda-Bazar (C.G.)

in Criminal Case No. 187/2013, wherein the said court acquitted the respondent for commission of offence under Sections 294, 506(Part-II) & 323 of IPC, 1860.

6. In the present case, complainant/ victim is Yashpal Chakradhari (PW-1). He did not depose regarding threat by the respondent. Though, he deposed that the respondent utter some abusive language, but it is not clear from his evidence as to what words uttered by the respondent. Unless words are specifically mentioned in the statement, it is not possible to conclude whether the words were obscene or not.
7. For establishing offence under Section 294 of IPC, the victim has not stated any word used by the respondent in his statement. 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 the respondent are 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. Though, the complainant deposed that the respondent caused injury on his head by rod, but no medical expert was examined in support of his statement. Lakhan (PW-2) is hearsay evidence to whom someone informed about the incident. In absence of medical opinion, it cannot be held that the victim sustained injury on his head.
10. The trial court has elaborately discussed the entire evidence and came to conclusion that the charges leveled against the respondent are not established. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
11. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge