

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2446 of 2018**

State of Chhattisgarh, through Police Station Pathariya, District Mungeli (C.G.).

---- **Petitioner**

Versus

Naresh Malhotra, S/o - Itwari Malhotra, aged about 46 years, R/o - Village Gangdwari, Police Station Pathariya, District – Mungeli (C.G.).

---- **Respondent**

 For State : Smt. Shubha Srivastava, Panel Lawyer.
 For Respondent : none.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

18/02/2019

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the 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 2 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 31th July, 2018 passed by the Court of learned Additional Judge to the Court of Additional Sessions Judge, Mungeli, District - Mungeli, (C.G.), in Session Trial No. H-49/2017, where in the said court acquitted the respondent for charges under Section 325 of IPC, 1860.
5. In the present case name of the victim is Bharti Devi. FIR is lodged by her on 30th January, 2016 and the same is signed by her. It is

stated in FIR that at the time of incident, the respondent called the people of locality and they informed the police regarding sale of liquor by the respondent and at the same time, she was running from the place and fall down and sustained injury in her left and right hand and other part of the body. The Doctor after X-ray report opined that she sustained fracture of right middle phalynx but she changed her version while deposing before the court and deposed that she did not fall and it is the respondent who assaulted her by club. Looking to the changed version in different stages, the Trial Court opined that charges leveled against the respondent is not proved beyond shadow of doubt. While in a criminal trial the liability should be proved beyond doubt.

6. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondent is not established. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
7. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge

Nadim