

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.36 of 2019**

- The State Of Chhattisgarh Through District- Magistrate, Jashpur, Chhattisgarh.

---- **Petitioner****Versus**

- Omprakash Gupta S/o Rajesh Gupta Aged About 25 Years R/o Charaikhara, Police Station- Narayanpur, District- Jashpur, Chhattisgarh.

---- **Respondent**-----
For the Petitioner/State : Shri Ravish Verma, Govt. AdvocateFor the respondent : None
-----**Hon'ble Shri Justice Ram Prasanna Sharma****Judgment On Board****18.02.2019.**

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.
2. On due consideration, the application is allowed and the delay of 77 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition is preferred against the judgment of acquittal dated 21.5.2018 passed by Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 (for short 'the Act, 1989'), Jashpur (CG) passed in Special (SC/ST) Case No.12/2017 wherein the said Court acquitted the respondent for the charges under Section 294 and 506B of the Indian Penal Code and under Sections 4 & 5 of the Chhattisgarh

Tonahi Pratadna Nivaran Act, 2005 and under Section 3(1)(r) and 3(1)(s) of the Act, 1989 amended Act, 2018.

5. From the evidence of the prosecutrix, she is the sole witness of the incident and informed about the incident to her husband and other persons but her husband in contradiction of the statement of the prosecutrix deposed that he is also the eyewitness account of the incident. Meghnath Yadav (PW-6) and Ganesh Kumar Yadav (PW-2) who have been cited as prosecution witnesses did not support the version of the prosecution. Jagat Prasad Gupta (PW-3) also did not support the case of the prosecution.

6. As per the version of the defence, the respondent has lodged report against the prosecutrix and her brother and on the basis of the report made by sister of the respondent, brother of the prosecutrix namely David is prosecuted that is why the this complaint was made as counter blast for the said report against the prosecutrix and her brother.

7. After going through the record it appears that the trial Court has discussed the evidence elaborately and after marshaling the entire evidence, it came to a conclusion that charges levelled against the respondent is not established beyond the shadow of doubt. Finding of the trial Court is one of the plausible view and the same is not disturbed even if other view is possible. It is a settled law that if two views are possible, the view which is in favour of the accused should be accepted. Therefore, this Court has no reason to record a contrary finding. It is not a case where

the respondents should be called for full consideration of the matter.

8. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

**Sd/-
(Ram Prasanna Sharma)
JUDGE**