

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 211 of 2019

State of Chhattisgarh through the Station House Officer, Police
Station Chakarbhata ,District Bilaspur (C.G.)

---- Petitioner

Versus

Maniram, S/o - Umenram Kurrey, Aged about – 32 years, R/o
Village Pathariya, Present r/o Minimata Nagar, near Ghasidas
Temple , Bilaspur (C.G.)

---- Respondent

For State/ Petitioner : Shri Ravish Verma, Government Advocate.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

27/02/2019

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 370 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 11.09.2017 passed by Judicial Magistrate First Class, Bilaspur (C.G.) in

Criminal Case No. 271/2013, wherein the said court acquitted the respondent for commission of offence under Sections 279, 338, 304-A of Indian Penal Code.

5. From the judgment of the trial court it appears that only one witness namely Dr. K.K. Sao, (PW-1) was examined before the Trial Court by the prosecution. No other witnesses was produced before the Trial Court and there is nothing to say that Trial Court has not provided opportunity to adduce evidence to prosecution.
6. It appears from the record that incident took place on 13th January, 2003, i.e. about sixteen years back. The case appears to be a sommon case as maximum punishment which is provided for Section 304 (A) of IPC is two years. Therefore, argument advanced on behalf of the appellant that opportunity should be provided to adduce evidence is not acceptable because it is not the case where the trial court has not provided opportunity.
7. Looking to the nature of the case which is sommon case, It would not be proper for this court to remand the case for adducing the evidence. The respondent has suffered agony of the trial before the said Court.
8. It is not the case where the respondent should be called for full consideration of this case As the evidence is lacking the trial court is right in recording acquittal order of the respondent.

9. 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