

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 208 of 2019

State of Chhattisgarh, Through Its Station House Officer,
Police Station- Ajak, Ambikapur, District- Surguja, (C.G.)

---- **Petitioner**

Versus

1. Raju Sharma, S/o - Late Chhte Lal Sharma, Aged about - 39 years, R/o - Atal Awas, Muktipara, Police Station- Gandhi Nagar, Ambikapur, District- Surguja, (C.G.)
2. Dharmendra Kushwaha, S/o - Santosh Kushwaha, Aged about - 27 years, R/o - Atal Awas, Muktipara, Police Station- Gandhi Nagar, Ambikapur, District- Surguja, (C.G.)
3. Smt. Anju Bansal, W/o - Dharmendra Kushwaha, Aged about - 25 years, R/o - Atal Awas, Muktipara, Police Station- Gandhi Nagar, Ambikapur, District- Surguja, (C.G.)
4. Smt. Manju Singh, W/o - Dharmendra Kushwaha, Aged about - 45 years, R/o - Atal Awas, Muktipara, Police Station- Gandhi Nagar, Ambikapur, District- Surguja, (C.G.)

---- **Respondents**

For State/ Petitioner : Shri Afroj Khan, Panel Lawyer.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

20/03/2019

1. Heard on I.A. No. 01/2018, 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 52 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 28th July, 2018 passed by Special Judge (Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (amended Act 2015)), Ambikapur, District - Sarguja (C.G.) in Special Session (Atrocities) Case No. 21/2017, wherein the said court acquitted the respondents for commission of offence under Sections 354/34(two times), 354 (B)/34, 506 of the IPC, 1860 & under Section 3(1)(D) (two times) and 3 (1) (s) (two times) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (amended 2015).
5. In the present case, four person have been charge-sheeted and all the witnesses examined by the prosecution made general and bald statement against all the respondents. For establishing each of the charge, the prosecution is under obligation to establish commission of offence against specific respondent because charges levelled can be levelled specifically.
6. From the evidence, it is not clear as to which of the respondents uttered the words. The word uttered is also not clear and who threatened to kill and whether he was determined to execute the threat on the spot is not specific. It is settled law that any word of threat is not sufficient to establish the charge because word is mere fury which is

sound but has no substance. Unless it is proved by causing independent determination of execution of threat, the party cannot be convicted. The trial Court has discussed this aspects of the matter and found that charge under Section 506 is not established.

7. From the evidence it is clearly established that both sides have rivalry regarding one house situated at the locality and that is why both sides have made frequent complaint against each other. From the record, it is established that Ramashankar (PW-4) who is husband of the victim has been charge-sheeted due to the report lodged by respondents side. The others have also charge-sheeted due to report lodged by the respondents side therefore, the trial Court opined that both the parties have long-long enmity and that is why they are levelling allegations against each other frequently.
8. Looking to the entire evidence, the trial court opined that charges leveled against the appellant is not established beyond shadow of doubt and extended benefit of doubt to the respondents. View taken by the trial court is one of the plausible view for which the trial court has elaborately discussed the entire evidence and after going through the record, this Court has no reason to record contrary finding. It is not a case where the respondents should be called for hearing again for full consideration of this petition.

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