

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 485 of 2020

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

---- Petitioner

Versus

1. Ram Singh Gond, S/o Shri Abir Ram Gond, Aged About 52 Years.
2. Daptriha Gond, S/o Shri Abir Ram Gond, Aged About 33 Years.
3. Dhanuk Dhari, S/o Shri Abir Ram Gond, Aged About 47 Years.
All are R/o Village- Akhora Kala, Police Station- Gandhinagar, Ambikapur, District- Surguja (C.G.)

---- Respondents

For State/ Petitioner : Mr. Dinesh Tiwari, Dy. Govt. Adv.
For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

24/02/2020

1. Heard on I.A. No. 01/2020, 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 150 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 11.06.2019 passed by Judicial Magistrate First Class, Ambikapur, District-Surguja (C.G.) in Criminal Case No. 57/2013, wherein the said court acquitted the respondents for charge under Sections 294, 506 (Part-II), 323 & 325 of IPC, 1860.
5. The trial court recorded finding that it is not clear from statement of the witnesses as to which of the respondent uttered obscene words. The statement made by Laxman Ram is bald and general in nature which is not sufficient to establish charge under Section 294 of IPC. Again, there is nothing on record for threatening by any of the respondent. No evidence is adduced for commission of offence under Section 506 (Part-II) of IPC.
6. Section 323 of IPC is non-cognizable offence and it can be enquired into only after permission of Magistrate under Section 155 (2) of the Cr.P.C. The trial court recorded finding that X-ray of Laxman Ram was taken after 28 days of the incident, therefore, it is doubtful whether it is caused due to the incident in question.
7. The trial court elaborately discussed the entire evidence and recorded finding of acquittal. The finding recorded by the trial court is one of the plausible view and it is settled law that if two views are possible, the view which is favourable to the accused/respondent, should be accepted. After reassessing the entire evidence, it is not a case where any interference is required with

the judgment of the trial court. It is also 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.

8. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun