

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1023 of 2018

- Jamil Ahmed Khan S/o Mustak Khan Aged About 36 Years
R/o Sargipal Para, Kondagaon, P.S. And District Kondagaon
Chhattisgarh

---- Petitioner

Versus

- Smt. Karuna Shukla W/o Dr. M.P. Shukla Aged About 67
Years R/o Anand Nagar, Raipur, District Raipur Chhattisgarh.

---- Respondent

For petitioner : Mrs. Anju Ahuja, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

ORAL ORDER

13-02-2020

1. Heard on I.A.No.1 of 2018, which is an application for
condonation of delay of 39 days in filing the instant petition.
2. For reasons mentioned in the application, the application is
allowed and delay of 39 days in filing the instant petition is
condoned.
3. Also heard on application for leave to appeal filed under
Section 378(4) of the Code of Criminal Procedure, 1973.
4. This petition is directed against the judgement dated 30-12-
2017 passed by the Chief Judicial Magistrate, Kondagaon, CG in

Miscellaneous Criminal Case No. 808 of 2012 wherein the said court acquitted the respondent for charge under Section 500 of IPC, 1860.

5. Petitioner/complainant filed a complaint under Section 500 of IPC, 1860 against the respondent on the ground that in one public meeting the respondent stated that the petitioner is a rapist. As per petitioner, same is done to defame him and to bring down his reputation that is why complaint was filed, but the trial court acquitted the respondent contrary to the factual matrix and legal aspect of the matter.

6. Learned counsel for the petitioner would submit that the words spoken before the public harmed the reputation of the petitioner and taking into consideration the evidence, the trial court ought to have convicted the respondent, therefore, finding of the trial court is liable to be set aside.

7. I have gone through the record of the court below in which judgement has been passed.

8. Petitioner side examined himself (Jamil Ahmed Khan) (PW/1) and Manoj Korram (PW/2). The first information report is Ex.P/1 in which it is mentioned that respondent charged him that he is facing trial of rape. Manoj Korram (PW/2) also deposed that respondent stated in meeting that charge of rape is levelled against the petitioner. Jamil Ahmed Khan (PW/1) exaggerated his version which is not

mentioned in FIR (Ex.P/1) lodged by him and deposed before the trial court that respondent stated in a meeting that the petitioner maintained illicit relation with number of women, but this part is not mentioned in his FIR. The petitioner has not explained as to why he exaggerated his version and if it is true why it is not mentioned in FIR. Petitioner PW/1 admitted that he has been charged in a case of rape under Section 376 of IPC, 1860 and again he was charged for offence under Sections 292 and 293 of IPC,. 1860. Though he was acquitted from charge under Section 376 of IPC, but he was convicted under Sections 292 and 293 of IPC (para 9).

9. From the evidence of the petitioner, it is clear that admittedly petitioner was charge-sheeted for offence of rape. The trial court recoded finding that act of the respondent appears to be bona fide because admittedly petitioner was charge-sheeted for offence of rape, therefore, malafide on the part of the respondent cannot be inferred. Bona fide statement in good faith cannot be termed as criminal act because any imputation in good faith for public good comes within exception of Section 499 (9th exception) of IPC 1860.

10. Taking into consideration the totality of the fact, it is not a case where interference is required with judgment of the trial court and it is also not a case where respondent should be called for full consideration of this petition.

11. Accordingly, application for grant of leave to appeal is rejected. Consequently, the instant petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Raju