

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 73 of 2020

State of Chhattisgarh Through Police Station Lundra, Ambikapur, District Surguja Chhattisgarh. **---- Petitioner**

Versus

Pintu Alias Sunit Kishore Kujur S/o Thepa Kujur Aged About 25 Years R/o Village Patora (Dandpara), Police Station Lundra, District Surguja Chhattisgarh. **---- Respondent**

For State/petitioner : Mr. Ishwar Jaiswal, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

04.03.2020

1. Heard on I.A. No.1/2020, which is an application for condonation of delay in filing the instant 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 161days in filing the petition is condoned.
3. Heard on application for grant of leave to appeal filed under Section 378(3) of Cr.P.C.
4. This petition is preferred against the judgment dated 10.04.2019 passed by learned Judicial Magistrate First Class, Ambikapur, Surguja (C.G.) in Criminal Case No. 707/2013 wherein the said Court has acquitted the respondent for commission of offence under Sections 294, 506 Part-II, 323 of Indian Penal Code, 1860.
5. In the present case, name of the complainant is Shailendra (PW-1). He deposed before the trial Court that on 22.08.2013 the respondent uttered abusive language to him and assaulted him with stick. The complainant narrates the story to his mother thereafter, his mother lodged report against the respondent. The

complainant did not depose that what were the words uttered by the respondent therefore, in absence of evidence charge under Section 294 of IPC is not established. Again there is nothing in the statement of the complainant that respondent was determined to execute his threat. Mere words are not real word of threat unless same is substantiated by execution in furtherance of threat. Therefore, charge under Section 506 Part-II is also not established. Though, Budhiyaro(PW-2) deposed that Shailendra is her son and he was assaulted by the respondent.

6. In the present case, the fact remains offence under Section 323 of IPC which is non-cognizable offence and investigation cannot be initiated without permission of Magistrate under Section 155(2) of Cr.P.C. for non-cognizable offence. Therefore, in absence of criminal act there is nothing to say that it is a case of wrongful restrain.
7. The trial has evaluated the entire evidence and after going through the records, it is not a case where interference of this Court is required with the judgment of the trial Court. It is also not a case where respondent should be called for hearing again for full consideration of this petition.
8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge