

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 122 of 2020

State of Chhattisgarh, Through- Police Station Torwa, District-
Bilaspur (C.G.)

---- Petitioner

Versus

1. Sameer Khan, S/o Shaikh Rahim Khan, Aged About 26 Years, R/o Tikrapara, District- Bilaspur (C.G.)
2. Amarjeet Kewat, S/o Sukhram Kewat, Aged About 26 Years, R/o Tikrapara, District- Bilaspur (C.G.)
3. Virendra Sahu, S/o Prahlad Sahu, Aged About 23 Years, R/o Tikrapara, District- Bilaspur (C.G.)

---- Respondents

For State/ Petitioner : Mr. Aman Kesharwani, Panel Lawyer
For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

27/02/2020

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 65 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 18.06.2019 passed by Judicial Magistrate Second Class, Bilaspur, District- Bilaspur (C.G.) in Criminal Case No. 778/2014, wherein the said court acquitted the respondents for charge under Sections 279, 294 & 323 of IPC, 1860.
5. In the present case, case of the prosecution is based on statement of Inderpal Singh (PW-1) who is the complainant. This witness deposed before the trial court regarding uttering of filthy words but, it is not clear as to who really uttered the words out of the respondents.
6. The respondents are charged under Section 294 of IPC, the essence of the crime under Section 294 of IPC consists in creating a public nuisance which because of its gravity being of a public nature may endanger public peace. In order to bring home the guilt of the accused for an offence under Section 294 of IPC, the prosecution has to establish that the words uttered were obscene. The test of obscenity is whether the tendency of the matter charges as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.
7. Filthy abuses are not uncommon. It had no more significance than mere platitudinous utterances signifying the enraged state of the person's mind. In the case on hand, the words uttered by the respondents are not clear, therefore, the words have no literal significance and it cannot fall in the purview of

obscene words. From evidence, it is not established that the offence under Section 294 of IPC is made out. In the present case, the evidence adduced by the prosecution is not objective, therefore, the same is not sufficient to establish charge under Section 294 of IPC.

8. Again, there is no medical evidence in support of the prosecution witnesses to establish charge under Section 323 of IPC. There is no evidence that the witnesses are able to prove the manner of driving by the respondents which can be termed as rash or negligent which is precedent condition for offence under Section 279 of IPC.
9. 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.
10. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge