

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 184 of 2020

State of Chhattisgarh Through The Police Station
Gandhinagar, District - Surguja Chhattisgarh. ---- **Petitioner**

Versus

1. Banteshwar Ram S/o Nansai Aged About 51 Years R/o Village Manjira, Police Station - Gandhinagar, District - Surguja Chhattisgarh.
2. Manoj Kumar S/o Jalinder Aged About 24 Years R/o Village Manjira, Police Station - Gandhinagar, District - Surguja Chhattisgarh. ---- **Respondents**

For State/petitioner : Mr. D.K. Tiwari, Dy.G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

25.02.2020

1. Heard on I.A. No.1, which is an application for condonation of delay in filing the instant petition.
2. On due consideration, the application is allowed and the delay of 103 days in filing the instant petition is hereby condoned.
3. Also 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 14.06.2019 passed by learned Judicial Magistrate First Class, Ambikapur, District- Surguja (C.G.), in Criminal Case No. 5432/2013 wherein the said Court has acquitted the respondents for commission of offence under Sections 325/34 of Indian Penal Code, 1860.
5. As per prosecution, in the present case, on 28th of February, 2013 in the morning at about 10.00 am, the respondents

assaulted the complainant Ayodhya @ Awadh Kumari by means of hands, fist and club and caused injuries to her and when her husband namely Prakash intervened they also assaulted him and caused injuries on the hand and forehead. The prosecution examined as many as six witnesses. From version of these two witnesses it is not clear as to who really assaulted to Prakash. The Dr. Alakhnanda Tirkey (PW-5) and Dr. Sarita Singh who examined the complainant Ayodhya found swelling and pain on her left wrist. It is stated that only one respondent caused injury to the complainant but from the statement of the complainant, it is not clear as to who caused injury to the victim Prakash. The other witnesses have not pointed out the person who assaulted the complainant.

6. The trial Court evaluated entire evidence and recorded finding that charge levelled against the appellant is not established. The trial Court elaborately discussed the entire evidence and in view of the legal position, 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 respondents should be called for hearing again for full consideration of this petition.
7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge