

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 183 of 2014**

- State Of Chhattisgarh Through Distt. Magistrate Durg Chhattisgarh

---- Petitioner**Versus**

1. Girja Choudhary (Deleted)
2. Rajkumar Choudhary S/o Girja Choudhary Aged About 35 Years R/o Camp 1 Near Sangram Chowk, Near Surendra General Stores Chhawni District : Durg, Chhattisgarh
3. Rajesh Choudhary S/o Girja Choudhary Aged About 24 Years R/o Camp 1 Near Sangram Chowk, Near Surendra General Stores Chhawni District : Durg, Chhattisgarh

---Respondents

For Petitioner/State	: Shri Animesh Tiwari, Dy. Advocate General
For Respondents	: None present, though served.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****05.02.2021.**

1. This application for leave to appeal under Section 378(1) of the Code of Criminal Procedure, 1973 has been filed against the order of acquittal dated 30.10.2013 passed by Judicial Magistrate First Class, Durg in Criminal Case No.456/2013 whereby the said Court acquitted the respondents for the charges punishable under Sections 294, 323/34 and 506(B) of the Indian Penal Code.
2. Learned counsel for the State/petitioner submits that no opportunity was granted to the prosecution to lead evidence, therefore, it is a fit case to grant leave to appeal against the order of acquittal as the respondents have been acquitted for want of evidence, by recording a finding which is perverse to the record.

3. I have heard learned counsel for the petitioner/State and perused the record.

4. The respondents were charge sheeted for the offence punishable under Sections 294, 323/34 & 506(B) of IPC on the ground that on 14.02.2009 the respondents assaulted complainant owing to some dispute arose in a marriage procession which resulted into injuries to the complainant on his head. The learned trial Magistrate categorically recorded a finding that in spite of several opportunity granted, the prosecution has not lead any evidence, as such, even the complainant has not been examined. In that view of the matter, for want of evidence, the trial Court has closed opportunity of evidence, thereby acquitted the respondents. The said finding recorded by the trial Court is strictly in accordance with law and I do not find any merit in the application for leave to appeal.

5. Accordingly, instant CrMP is dismissed.

Sd/-
(Sanjay K. Agrawal)
JUDGE