

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 2516 of 2019**

State of Chhattisgarh, through its Station House Officer, Police Station Narayanpur, District Narayanpur (C.G.)

---- Appellant

Versus

Santosh Tiwari, S/o Santlal Tiwari, aged about 36 years, resident of village Devgaon, Police Station Narayanpur, District Narayanpur (C.G.)

----Respondent

For Appellant	:	Mr. Dinesh Tiwari, Dy. Govt. Advocate.
For Respondent	:	None present.

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board**

04.10.2021

(1) Heard on application for grant of leave to appeal under Section 378 (3) of CrPC.

(2) This petition has been preferred against the judgment of acquittal dated 7th February, 2019 passed by Chief Judicial Magistrate, Narayanpur, District Narayanpur in Criminal Case No. 143/2017 whereby respondent/accused has been acquitted of the commission of offence under Sections 294, 506 part-II & 186 of the IPC.

(3) Learned counsel for the State/petitioner would submit that Investigating Officer – Shankar Mandavi (ASI) has been examined as PW-1 in this case

whereas other witnesses were not found in their given address, therefore, in the fact situation of the case, the learned trial Court ought to have considered the circumstances and respondent/accused should be convicted for the alleged offences, therefore, looking to the above situation, this is arguable case, therefore, application for leave to appeal be allowed.

(4) As per impugned judgment dated 7.2.2019, case of the prosecution is that on 16.01.2017 at about 11 AM, complainant – Virendra Kumar Shrivastava, who is a Revenue Inspector, had gone to village Devgaon along with Patwari – Anil Kujur and chain-main Somnath Yadav to demarcate the land, which was acquired under Devgaon Jalashay Pariyojna, then respondent/accused abused them in filthy language, threatened them and obstructed them to discharge their public function. As a consequence, the report was lodged by complainant Virendra Kumar Shrivastava (Revenue Inspector). After usual investigation, charge sheet under Sections 294, 506 (part-II) & 186 of the IPC was filed before the trial Court. Charges under aforesaid sections were framed and the same was read and explained to the respondent/accused, which he denied and his plea was recorded.

(5) To substantiate the charges, the prosecution has examined only one witness i.e. Investigating Officer – Shankar Mandavi, who had prepared spot map (Ex.P-1) and has seized stick (डंडा), except him, no other witnesses have been examined by the prosecution in this case. Thus, in the lack of substantive evidence, prosecution has miserably failed to prove the charges levelled against

the respondent accused. The trial Court has elaborately discussed the entire evidence and recorded finding of acquittal. After going through the record, this Court is of the view that judgment of acquittal passed by the learned trial Court is not required any interference of this Court. It is also not a case where the respondent/accused should be called for full consideration of the petition.

(6) Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-

(N.K. Chandravanshi)
Judge

D/-

