

(2018) 11 CHH CK 0029

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition No.2403 of 2018

State Of Chhattisgarh

APPELLANT

Vs

Khemu Dheemar @ Khemlal S/o Shiv Kumar Dheemar

RESPONDENT

Date of Decision : 27-11-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 378(3)
Indian Penal Code, 1860 — Section 354A(i)(ii), 506

Citation : (2018) 11 CHH CK 0029

Hon'ble Judges : Ram Prasanna Sharma, J

Bench : Single Bench

Advocate : Lav Sharma

Final Decision : Dismissed

Judgement

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of State of Haryana Vs. Chandra Mani & Ors. reported in 1996 3 SCC 132, the delay of 03 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition has been preferred against judgment dated 26.6.2018 passed by Judicial Magistrate First Class, Raipur (CG) in Criminal Case No.438/2013 wherein the said Court acquitted the respondent for the charges under Sections 354-A (i)(ii) & 506 Part-II of the Indian Penal Code for committing sexual harassment on prosecutrix (PW-1) and for his act of involving unwelcome and explicit sexual overtures and demand or request for sexual favours and for threatening to kill her.
5. In the present case, prosecutrix though deposed that the respondent made

unwelcome and explicit sexual overtures and demanded sexual favour to her but she has admitted that she did not disclosed this fact to anyone. The matter was reported after seven months of the incident as per the FIR. Looking to the conduct of the prosecutrix and looking to the inordinate delay in lodging the FIR the trial Court opined that it is not safe to act on the statement of the prosecutrix . It is alleged by the prosecutrix that the respondent also harassed her sister-in-law (devrani) but the fact remains that her sister-in-law did not report the matter to any authorities. Looking to this factual aspects of the matter the trial Court opined that charges levelled against the respondent are not established beyond the shadow of doubt.

6. So far as the offence under Section 506 IPC is concerned, it is established only when the aggressor determined to execute a threat. In the present case from the evidence it is not established that the respondent was in possession of any weapon to execute his threat. Therefore, any word uttered by the respondent is mere fury which has sound but the same is without substance. Therefore, charges under Section 506 Part II IPC was also not established as per the version of the trial Court. After going through the entire record this Court has no reason to record a contrary view. It is not a case where the respondent should be called for full consideration of the petition.

7. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.