

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 182 of 2008

1. Govind Ram Verma S/o Late Fagu Ram Verma aged about 55 years, resident at Tulsipur, Motipur Ward No.6, Rajnandgaon, O.P. Chikhali, Police Station City Kotwali, Rajnandgaon Distt. Rajnandgaon (CG).

---- Appellant

Versus

1. State of Chhattisgarh, through Police Station City Kotwali, Rajnandgaon, Distt. Rajnandgaon (CG)

---- Respondent

For Appellant:

Shri Ashok Patil, Advocate.

For Respondent:

Shri Arvind Dubey, Panel Lawyer.

Hon'ble Shri Justice Pritinker Diwaker

Judgement

27/01/2016

1. This appeal arises out of the judgment of conviction and order of sentence dated 27.11.2007 passed by the Special Judge, Rajnandgaon in Special Case No.32/2007 convicting the accused/appellant under Section 294 of the Indian Penal Code (for short 'the IPC') and sentencing him with fine of Rs.300/-, in default to undergo additional S.I. for 05 days.
2. The prosecution story, in brief, is that on 23.1.2007 the accused/appellant entered the Government Printing Press, Rajnandgaon and filthily abused the complainant, a member of scheduled tribe community and working in the press at that time. Report of the incident was lodged in the police station. The complainant has also lodged report (Ex.P-2) in the police station. On the basis of aforesaid allegations, the offence under Sections 294, 506B, 186 of the IPC and Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act

of 1989') has been registered against the accused/appellant. On completion of investigation, charge sheet was filed against the accused/appellant for the offence punishable under Sections 294, 506B, 186 of IPC and Section 3 (1) (x) of the Act of 1989 followed by framing of charges by the Court below under the aforesaid sections.

3. The prosecution in order to bring home the charges levelled against the accused/appellant examined 05 witnesses. Statement of the accused/appellant was recorded under Section 313 of Cr.P.C. in which he abjured his guilt and pleaded false implication. He has examined Ravi Kumar (DW-1) in his defence.
4. After hearing counsel for the parties and considering the material available on record, the trial Court while acquitting the accused/appellant of the charges under Sections 506B, 186 of IPC & Section 3 (1) (x) of the Act of 1989, by the impugned judgment convicted & sentenced him as described above.
5. Learned counsel for the accused/appellant submits that;
 - independent witnesses namely Pannalal (PW-1) & Ashok Kumar (PW-3) have not supported the prosecution case and therefore conviction of the appellant is not sustainable in law.
 - on account of previous animosity, the complainant has falsely implicated the appellant in the crime in question.
 - the appellant is a government servant and if his conviction is not set aside, he would suffer irreparable loss.
 - statement of Ravi Kumar (DW-1) makes it clear that the appellant had never abused the complainant.
6. Supporting the impugned judgment it has been argued by the counsel for the State that the complainant has stated in categorical terms as to the manner in which the accused/appellant filthily abused the complainant.

Pannalal (PW-1) & Ashok Kumar (PW-3), employees of the press, have duly supported the prosecution case and there is no reason to disbelieve their testimonies.

7. I have heard learned counsel for the parties and perused the material available on record.

8. Pannalal (PW-1) is an eyewitness to the incident. He has stated that on the fateful day he along with Shri Kumar, Deputy Director, was on the inspection. At about 12.30 p.m. he saw that some discussion was going on between accused/appellant and complainant. Seeing the accused/appellant, Shri Kumar asked him as to how he came inside, whereupon the accused/appellant started hurling abuses to Shri Kumar. He has further stated even after refusal by the complainant for entry of accused/appellant, he remained adamant for that, but except this the accused/appellant did not say anything to the complainant. At this stage, this witness has been declared hostile, however, in the cross-examination by the prosecution this witness has admitted that accused/appellant had showered obscene words i.e. accused/appellant abused the complainant in the name of his mother. He has further stated that obscene words uttered by the accused/appellant caused annoyance to him.

9. Ganesh Lal Nayak (PW-7) is the complainant. He has stated that on 23.1.2007 at about 1.45 - 2.00 p.m. in the afternoon, while he was taking attendance of the employees, he saw the accused/appellant coming from the main gate. Entry of the accused/appellant in that area was restricted. According to this witness, accused/appellant filthily abusing him had said to him whether the government press belonged to his father. Meanwhile, Pannalal Nayan, Toppo came there. Thereafter the accused/appellant went outside. He has further stated that abusive language used by the accused/appellant made him angry. On the second day, he lodged report in the

police station. In the cross-examination this witness has admitted that on the complaint of accused/appellant regarding misuse of LTC by him, the enquiry was conducted against him and in that enquiry he was punished with stoppage of two annual increments. He has denied the suggestion that to avoid supply of information to the accused/appellant under the Right to Information Act, false report has been lodged against him.

10. Ashok Kumar (PW-3) is the another eyewitness of the incident. He has stated that on the date of incident he along with Pannalal was conducting inspection in the printing press. On hearing commotion, he came in the Time Section and saw the accused/appellant and the complainant quarrelling. He has further stated that despite his efforts to make the accused/appellant understand, the accused/appellant continued to use abusive language against the complainant. In the cross-examination he has denied the suggestion that as the accused/appellant has made several complaints against him, therefore, he got lodged false report against him.
11. Devendra Potai (PW-4) is the City Superintendent of Police, Rajnandgaon who did the investigation.
12. T.R. Sahu (PW-5) is the person who registered the FIR.
13. Ravikumar (DW-1) has stated that the accused/appellant was standing outside the gate and not done anything.
14. Close scrutiny of the evidence makes it clear that on 23.1.2007 the accused/appellant entered inside the Government Printing Press where his entry was restricted and uttered obscene words towards the complainant and thereby caused annoyance not only to the complainant but also to others present there. Entire incident was witnessed by Ashok Kumar (PW-3) who has categorically supported the case of prosecution. Pannalal (PW-1), a hostile witness, has also admitted in the cross-examination that it is accused/appellant who had filthily abused the complainant. Since nothing

has been brought on record by the defence to controvert the stand of the prosecution, this Court does not find any reason to disbelieve the testimonies of the complainant (PW-2) & eyewitness Ashok Kumar (PW-3), who has described the incident in a lucid manner. Thus the findings recorded by the Court below appears to have been recorded after due appreciation of the evidence of the witnesses and there is no infirmity in the same. The judgment impugned convicting the accused/appellant under Section 294 of IPC is strictly in accordance with law and that being so it is hereby maintained.

15. Appeal being meritless is liable to receive the fate of dismissal. Ordered so.

Sd/-
(Pritinker Diwaker)
Judge

roshan