

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1175 of 2016

K. R. Dahariya S/o Kodu Das Dahariya, Aged About 48 Years Caste Satnami (Scheduled Caste) Occupation - Upper Division Teacher At Govt. Middle School Adherikachhar, Block And District Korba Chhattisgarh, R/o Of Quarter No. 141 E W S Colony, M. P. Nagar, Korba District Korba Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through Station House Officer, Police Station (S.C. S. T.) I. T. I. Rampur Korba, District Korba, Chhattisgarh.
2. Suresh Kumar Dwivedi, S/o I. N. Dwivedi, Aged About 52 Years Caste Bramhan, Occupation - Head Master, At Govt. Middle School Adherikachhar, Block And District Korba Chhattisgarh R/o Quarter No. 179 Maharana Pratap Nagar Extension, Korba District Korba Chhattisgarh.

---- Respondents

For Petitioner	:	Shri B.L. Bhardwaj, Advocate.
For Respondent/State	:	Shri Ashok Swarnakar, Panel Lawyer.

Hon'ble Shri Justice P.Sam Koshy

Order On Board

25/10/2016

1. The present petition has been filed seeking for leave to appeal against the order dated 20.07.2016 passed by the Special Judge (ST&SC Act) Korba, in Special Sessions Trial No.02 of 2014 whereby the court below has found the respondent No.2 to be guilty of having committed offence under Section 323 IPC and imposed a fine of Rs.1000/-. At the same time, the court below has also found that the offence punishable under Sections 294 and 506-B IPC and Section 3(1)(X) of SC/ST Act has not been established and proved by the prosecution and has accordingly acquitted him from the said charge.

2. Assailing the said judgment and seeking leave to appeal on the same, learned counsel appearing for the petitioner submits that the court below has not appreciated the evidence which has been recorded by the complainant before the court below in its proper perspective. According to him, there has been specific averment made by the complainant before the court below of the respondent No.2-accused calling him by his caste and thus, has committed an offence punishable under the provisions of SC & ST Act. It is further argued that the court below further has not appreciated the fact that the complainant was infact humiliated by the respondent No.2 accused knowing fully well the caste of the petitioner to be that of reserved category. He further submits that the respondent accused was the Principal of the School in which the complainant was also a Upper Division Teacher and taking benefit of his position he has tried to insult the petitioner. All these facts have not been properly appreciated and considered by the court below while deciding the case.
3. State counsel, however, opposes the petition and draws the attention of the court towards finding of the court below in paragraphs 21 to 23 of judgment wherein the court below has threadbare considered the deposition of the petitioner complainant and has reached to the conclusion that the allegation of calling the petitioner 'Chamar' was not found in the written complaint lodged by the petitioner on the date of incident itself i.e. 21.07.2012. Similarly, the allegations were also not found in the subsequent written complaint that the complainant had made to the Superintendent of Police on 27.07.2012. Thus, the State counsel submits that there is no error committed by the court below in acquitting the

respondent No.2 from the said charges.

4. Considering the rival contentions put forth on either side and on perusal of records, this court is of the opinion that the trial court has infact dully considered the deposition of the complainant and has reached to the conclusion that the fact that the allegation of calling the petitioner-complainant 'Chamar' by the respondent No.2 was not reflected in the two written complaints made by the petitioner on 21.07.2012 and 27.07.2012. Further, the incident being occurred in a close room i.e. within the chamber of the Principal as well as Staff room was not a public place and which was not accessible to the public view. Thus, it cannot be said that the court below has committed any error of law calling for an interference with the judgment.
5. Accordingly, this court does not find any strong ground for grant of leave to appeal and the petition being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P.Sam Koshy)
Judge