

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 1413 of 2016

State of Chhattisgarh through District Magistrate Kanker,
Chhattisgarh.

---- Petitioner

Versus

1. Parmanand Sahu S/o Mansingh Sahu, aged about 46 years R/o Haradula Chowki Halba, Police Station Narharpur, District North Bastar Kanker, Chhattisgarh.
2. Jitendra Sahu S/o Mansingh Sahu, aged about 39 years, R/o Village- Haradula, Chowki- Halba, Police Station- Narharpur District North Baster Kanker, Chhattisgarh.

---- Respondents

For Petitioner/State : Shri Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

22/12/2016

The present CrMP has been filed seeking for grant of leave to appeal against the judgment of acquittal dated 08.09.2016 passed by the Special Judge (Atrocities), North Bastar, Kanker in Special Case No. 19/2015 whereby the Court below has acquitted the respondents from the charges under Section 506 of IPC and Section 3 (1) (x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Counsel for the State assailing the impugned judgment submits that the Court below has not taken into consideration the evidence which has come on record on behalf of the prosecution particularly that of the complainant and the other witnesses who have specifically stated before the Court below in respect of the filthy language used by the respondents

and the threat given by them to the complainant Mahendra Gawde (PW-3). He further submits that the complainant PW-3 and Sankar Chakradhari (PW-4) both have supported the case of the prosecution in as much as they have made the same statement that were made at the time of lodging of the complaint and as such, the complaint stands established and proved. Therefore, the Court below ought not have acquitted the respondents with the aforesaid evidence that has come on record.

3. Having heard the State counsel and on perusal of the record what is reflected from the finding of the Court below is the fact that from the evidence of PW-3 and PW-4, the ingredients required for making a case under Section 506 of IPC are missing in as much as the element of criminal intimidation is not reflected from the statement of both the witnesses without which the offence under Section 506 IPC would not be made out. So far as the charge under Section 3 (1) (x) of SC/ST Act is concerned, the finding of the Court below is that the investigation in the instant case has been conducted by an ASI and as per the provisions of law, the investigation could not have been done below the rank of Sub-Divisional Officer of Police. It was also the finding of the Court below that the reason for false implication of the respondents was that they had on numerous occasions lodged complaint against the complainant for the irregularities in construction of the CC road during the tenure of the complainant as the Sarpanch of the village and the evidence in this regard was also brought on evidence. One such complaint is Ex. D-2 which was lodged on 10.10.2014 and on the very next day i.e. 11.10.2014 the complainant also lodged a complaint against the respondent at Police outpost Halwa and thereafter again a complaint at Police Station A.J.A.K.,

Kanker.

4. Thus, from the above findings given by the Court below the necessary ingredients as are required under Section 506 IPC are not traceable in the evidence of PW-3 and PW-4 and the investigation has not been conducted by the officer as has been stipulated under SC/ST Act in furtherance the motive behind the false allegation has also been established are all plausible grounds and the finding therefore cannot be said to be contrary or perverse to the evidence which has come on record.

5. In view of the same, this Court does not find any strong case made out for grant of leave to appeal against the impugned judgment of acquittal. Accordingly, the present CrMP being devoid of merit stands dismissed.

Sd/-
(P. Sam Koshy)
JUDGE