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HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 74 of 2016**

State Of Chhattisgarh Through District Magistrate Dhamtari, Distt.
Dhamtari Chhattisgarh.

---- Petitioner**Versus**

Demam Lal Sahu S/O Dau Ram Sahu Aged About 26 Years R/O
Village Bodara, P.S. Magarlod, Distt. Dhamtari Chhattisgarh.

---- Respondent

For Petitioner-State:	Mr. B. Gopa Kumar, Dy. Advocate General
For Respondent :	None.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****14.06.2016**

1. The present Cr.M.P. has been preferred challenging the Order dated 01.09.2015 passed by the Special Judge (Scheduled Caste, Scheduled Tribe Prevention of Atrocities Act) Dhamtari (C.G.) in Special Sessions Trial No. 7/2014.
2. Learned Counsel appearing for the Petitioner-State submits that it is a case where the Respondent who having an illicit relationship with the Prosecutrix had in addition to having physical relationship had also taken obscene photographs of her on his mobile and subsequently circulated the same in the family where the Prosecutrix was supposed to get married. That because of the circulation of the said mobile photographs, the marriage broke down, leading to the filing of complaint

against the present Respondent for the offence under Section 294, 506 (B), 341, 376, 292 and 507 of I.P.C. and Section 67 of the Information Technology Act, 2000 (hereinafter 'the I.T. Act, 2000) and Section 3(1)(12) and 3(2)(5) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocity) Act., 1989 (hereinafter 'the SCST Act, 1989). After the conclusion of the trial, the Court below vide order dated 01.09.2015 had, finding the Respondent guilty for the offences punishable under Sections 506(B), 341, 376, 292 and 507 of I.P.C. convicted him. However the Court below for want of sufficient evidence acquitted the Respondent from the offences under Sections 294 of the I.P.C., Section 67 of the I.T. Act, 2000 and 3(1)(12) and 3(2)(5) of the SCST Act, 1989.

3. Learned Counsel appearing for the Petitioner-State further submits that the present appeal has been filed challenging the findings of the Court below to the extent that there was sufficient evidence for the offence punishable under Sections 294 of the I.P.C. and 67 of the I.T. Act, 2000 and also 3(1)(12) and 3(2)(5) of the SCST Act, 1989. Referring the evidence of the Prosecutrix he submits that there is a clear evidence on part of the Prosecutrix so far as taking of her obscene picture on mobile and also circulating the same that has come on record, therefore, the Court below ought to have also convicted the Respondent for the offence under Section 294 of the I.P.C. as well.

4. A perusal of the impugned order and the facts which the prosecution has brought on record, it can be safely inferred that there is no sufficient evidence on part of the prosecution so far as the conviction

of the Respondent of the offence under Section 67 of the I.T. Act, 2000 is concerned. Like wise there is no sufficient material brought on record by the prosecution so far as the offences under Sections 3(1)(12) and 3(2)(5) of the SCST Act, 1989 are concerned. In the opinion of this Court, the Court below has rightly acquitted the Respondent for the said offences. The State Government has also not been able to show any further documents on record by which it can be said that the aforesaid offences have been established by the prosecution. So far as the offence under Section 294 is concerned, none of the ingredients which are required for offence under Section 294 I.P.C. has been established by the prosecution, therefore the Court below has rightly acquitted the Respondent of the said charge, as except for circulating obscene mobile photographs of the Prosecutrix there is no allegation of any particular act being committed by the Respondent himself, which can be termed or would fall under the ambit of Section 294 I.P.C.

5. Considering the aforesaid facts and circumstances of the case, this Court is of the opinion that no good ground is made out by the State calling interference with the impugned order.

6. Accordingly, the instant Petition being devoid of merit, the same is dismissed.

Sd/-
(P. Sam Koshy)
JUDGE