

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRIMINAL REVISION NO. 810 OF 2015**

State Of Chhattisgarh Through : The Police Station, Bhilai Bhatti, District Durg, Chhattisgarh.

**... Applicant**

**Versus**

1. L. Ramu S/o Late S. Subramaniam Aged About 53 Years R/o Village Kowiloor, District North Arkar, Presently R/o. M. I. G. 1, 483, HUDCO, Bhilai, District Durg, Chhattisgarh.
2. Murli Reddy S/o T. Ramarao Aged About 27 Years R/o Zone 2, Ward No. 32, Balaji Nagar, Near Chotu Bicycle Shop, Khursipaar, Bhilai, District Durg, Chhattisgarh.

**... Respondents**

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

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**Hon'ble Shri Justice P. Sam Koshy**

**ORDER ON BOARD**

**22.12.2016.**

1. The present criminal revision is today listed for orders on defaults pointed out by the Registry, however, on perusal of records, the defaults, for the moment are ignored.
2. Heard on admission.
3. The State has filed this revision against the order dated 11.05.2015 passed by the Special Judge (Scheduled Caste/Scheduled Tribe) (Prevention of Atrocities) Act, 1989, Durg, in Special Case No.34/2014. Vide the said impugned order, the court below has discharged the respondents from the offence punishable under Section 3(1)(11) of the Scheduled Caste, Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short ST & SC Act).

4. The facts in brief is that, the complainant Ku. Tameshwari Thakur had lodged a written report to the Station House Officer, Bhilai Bhatti, Distt. Durg informing that the respondents in the present case being the office bearers of Chhattisgarh Kho-Kho Association had outraged the modesty of the complainant and other girls who were undergoing training at BSP ground during the period from 27-28/01/2014. Based on the said written report, an FIR was registered against the respondents as Crime No.19 of 2014 at Police Station Bhilai Bhatti, Distt. Durg for the offence under Sections 8 & 12 of POCSO, Section 67-B of the Information Technology Act and Sections 354(A),(B) and (C) read with Section 34 of IPC. In addition, offence under Section 3(1)(11) of ST & SC Act was also registered against them. Subsequently, charge sheet was filed and the matter was put to trial. During the course of trial, the respondents-accused moved an application for discharge from the offence under Section 3(1)(11) of the ST & SC Act.
5. Vide impugned order dated 11.05.2015, the court below has discharged the respondents-accused persons from the offence under Section 3(1)(11) of ST & SC Act and framed the charge for the remaining offences registered against the respondents. It is this discharge of respondents from the offence under Section 3(1)(11) of ST & SC Act which is under challenge in this revision petition by the State.
6. Counsel for the applicant/State assailing the order submits that it is a case where indisputably the complainant Ku. Tameshwari Thakur and other girls accompanying the complainant were also belonging to the ST & SC categories and while they were undergoing training at Bhilai,

the respondents knowing fully in respect of the caste of the complainant outraged her modesty finding her alone in the room at the camp at Bhilai. It was also alleged by the complainant that both the respondents also tried to outrage the modesty of other girls who were undergoing training. It was stated that initially three persons tried to outrage the modesty of the girls, however, in due course of time, one accused Jagbandhu Jaina had died and as such the trial is undergoing only for the two accused i.e. respondents herein.

7. It is further submitted by the applicant that there is categorical finding that the complainant Tameshwari Thakur belongs to ST category and that other girls were also of the same category. There was no reason why the respondents were discharged from the offence under Section 3(1)(11) of ST & SC Act. It was also contended that the respondents were fully aware of the fact that the complainant and other girls belonged to ST & SC categories and finding them alone in the room at camp where they were undergoing training, both the respondents tried to outrage the modesty of the complainant and other girls and had also tried to show obscene video clippings from their mobile phones which they were having. Thus, offence under Section 3(1)(11) of ST & SC Act has been clearly made out and grant of discharge is therefore bad in law.
8. However, a perusal of records enclosed along with the revision petition clearly reflects that in the written complaint, FIR which was subsequently lodged and in the statement of girls whose modesty outraged by the respondents No.1&2 have not made any specific

averment so far as they belong to the particular caste or tribe. The finding of the court below is also that in the complaint which was made by the complainant and the statement which have been recorded during the course of investigation also in the FIR it does not show that there was any reference of them belonging to ST & SC category. In the absence of any such specific averment made by the complainant at the initial stage itself i.e. at the time of filing of the written complaint or at the time when FIR was being lodged later on during the course of investigation, it cannot be said that the act which is alleged to have been committed by the respondents was taking advantage of the victim/complainant being of the ST & SC category.

9. In the given facts and circumstances of the case, this court does not find any illegality or infirmity on the part of the court below while discharging the respondents from the offence under Section 3(1)(11) of ST & SC Act.
10. The criminal revision thus fails and is accordingly dismissed.

Sd/-  
(P. Sam Koshy)  
**Judge**