

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 649 of 2016**

- Raj Kumar Dhruv S/o Ramprasad Dhruv Aged About 59 Years R/o Hatkeshar, Ward No. 1, Badpara, P.S. Dhamtari, District Dhamtari, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The District Magistrate, Distt. Dhamtari, Chhattisgarh
2. Sudip Gupta S/o Late Durgaprasad Gupta Aged About 47 Years R/o Near Putri Shala, Chameli Chauk, Sadar Bazar, Dhamtari, P.S. & Distt. Dhamtari Chhattisgarh

---- Respondents

For Petitioner
For State

Mr. R.K. Gupta, Advocate
Ms. M. Asha, Panel Lawyer

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****24.10.2016**

1. The present Petition has been preferred seeking leave to appeal against the judgment of acquittal dated 28.04.2016 passed by the Special Judge (Schedule Caste and Schedule Tribes Prevention of Atrocities Act) in Special case No. 06/16.
2. Vide the said trial Respondent No.2 was subjected to trial for the offence punishable under Section 294, 506B IPC and Section 3(1) (10) of Schedule Caste & Schedule Tribes Prevention of Atrocities Act.
3. Learned Counsel for the Petitioner assailing the impugned order submits that the Court below has not appreciated the evidence which

has come on record and have wrongly passed the impugned order of acquittal in favour of the Respondent No. 2.

4. He further submits that on reading the statement of the complainant itself clearly reflects that the ingredients required for constituting the offence under Sections 294 and 506B of the IPC and also under Section 3(1)(10) of the SCST Act were proved and established on behalf of the prosecution and yet the Court below has not appreciated these evidence and has granted benefits to the accused acquitting him from the said offence.
5. Further a perusal of the impugned order Paragraph 16 clearly reflects that the trial Court has in fact considered threadbare the evidence which was adduced by the complainant and has reached to the specific finding that the ingredients necessary for constituting the offence for which Respondent No. 2 was charged was not the present and it was found that there was no cogent evidence led by the prosecution against the accused while granting him benefit of doubt and has acquitted him.
6. So far as the order of acquittal is concerned it can not be lightly interfered with as a matter of routine. The complainant in the instant case has not been able to lead cogent evidence to establish the fact that the Respondent No. 2 accused abused the Petitioner complainant calling upon his caste. Further, from his deposition it is also not reflected that the said abuse which is reflected in the statement to have been mentioned initially in the written complaint that he had made to the authorities. In the absence of the same in the said complaint, the complainant has not been able to establishes the charges before the Court below beyond reasonable doubt.

7. Thus, in the given facts and circumstance of the case if the Court below has granted advantage to the Accused Respondent No.2 it can not be said that to be a perverse finding of fact nor it can be said to be contrary to the evidence on record. Rather, it is the case where the impugned order has been passed considering the depositions of the complainant side recorded during evidence and on its merits. In the opinion of this Court no strong case has been made out seeking for leave to appeal to be granted.
8. Accordingly, the present Cr.M.P. stands rejected.

Sd/-

(P. Sam Koshy)
JUDGE