

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 547 of 1999

Manharanlal S/o. Ramnath Yadav, aged 39 years, R/o. Village Motimpur, P.S. Jarhagaon, District Bilaspur (M.P.) Now District Bilaspur (C.G.)

---- Appellant

Versus

State of Madhya Pradesh through Station House Officer, Police Station Jarhagaon, District Bilaspur (M.P.) Now Chhattisgarh.

---- Respondents

For Appellant	:	Mr. Vipin Singh, Advocate.
For Respondent	:	Mr. Anil S Pandey, Govt. Advocate

S.B.:- Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

26.10.2017

- 1) This appeal is preferred against the judgement of conviction and order of sentence dated 15.02.1999 passed by the Special Judge Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989, Sessions Division Bilaspur District Bilaspur (M.P.) (now C.G.), in Special Criminal Case No. 6/98, wherein the trial Court convicting the accused/appellant under Section 294 of the IPC and Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989 and sentencing him to undergo

rigorous imprisonment for two months; rigorous imprisonment for six months and to pay fine of Rs. 500/- with default stipulations.

- 2) As per the prosecution case, complainant Manoj Kumar Satnami (PW-1) was celebrating Guru Ghasidas Jayanti with the other people of village and when he lit up fire on firecrackers, the appellant assaulted him and used abusive language against him and intentionally insulted and intimidated with an intent to humiliate him, who is a member of Scheduled Caste and the appellant is not a member of Scheduled Caste or Scheduled Tribe. The matter was reported to Police. During investigation, statements of the witnesses were recorded under Section 161 of the Cr.P.C. After completion of the investigation, charge sheet was filed against the accused/ appellant in the Court of Special Judge (Atrocities) Bilaspur wherein the Special Judge framed charges as mentioned above to which the appellant did not plead guilty. The Special Judge (Atrocities) conducted the trial and after completion of evidence of the prosecution side, statement of the appellant under Section 313 of the Cr.P.C., was recorded and after completion of trial, the Special Judge considering the material available on record by the impugned judgement convicted and sentenced the accused/appellant as mentioned above.
- 3) Learned counsel appearing for the accused/appellant submits that there is no iota of evidence that the appellant is a member of Scheduled Caste, therefore, Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989 is not made out against the appellant. He further submits that so far as the

offence under Section 294 of the IPC is concerned, all the witness of the prosecution have exaggerated their evidence before the Court what they have stated before the Investigation Officer under Section 161 of the Cr.P.C. Learned counsel for the appellant further submits that there is no evidence that any word uttered by the appellant was obscene and fall within the mischief of section 294 of the IPC.

- 4) *Per contra*, learned State counsel supporting the impugned judgement has submitted that the judgement of the trial Court is strictly in accordance with the law and well founded and there is no illegality or infirmity in it warranting any interference by this Court.
- 5) I have heard counsel for the parties and perused the material on record.
- 6) To substantiate the charge prosecution has examined as many as 7 witnesses. The appellant did not examine any witness in his defence.
- 7) Manoj Kumar Satnami (PW-1) deposed that he was having firecrackers and when he tried to lit firecrackers the appellant assaulted him and used abusive language against him. He further deposed that the appellant used word "*Chamra Sale*". Latelram Satnami (PW-2) Shukrasen (PW-4) and Suman (PW-5) deposed in the same line but the word stated by him before the Special Court was not stated by them before the Investigation Officer and their conversation is exaggerated when they have not stated such word at the first instance before the Investigation Officer and the same

can be accepted only when there is explanation for not stating the same in previous and first occasion.

- 8) The appellant is charged under Section 294 of the IPC, the essence of the crime under Section 294 of the IPC consists in creating a public nuisance which because of its gravity being of a public nature may endanger public peace. In order to bring home the guilt of the accused for an offence under Section 294 of the IPC the prosecution has to establish that the words uttered were obscene. The test of obscenity is whether the tendency of the matter charges as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.
- 9) Filthy abuses are not uncommon. It had no more significance than mere platitudinous utterances signifying the enraged state of the persons' mind. In the case in hand, it is not stated by the witness that the appellant had uttered some abusive words but the words which are stated before the Investigating Officer are words which have no literal significance and that can not fall in the perview of obscene words from the evidence it is not established beyond doubt any obscene word was uttered by the appellant under Section 294 of the IPC is thus not established against him.
- 10) So far the offence under Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989 is concerned, no one is examined by the prosecution to establish that complainant Manoj Kumar Satnami is a member of Scheduled Caste. To attract the provision, it is condition precedent that the victim should be of such class means either of Scheduled Caste or

Scheduled Tribe. When his caste is not established it cannot be said that by using any word which is stated it was intended to humiliate the member of Scheduled Caste.

- 11) From the evidence, it is established that the altercation took place between the complainant and the appellant when he tried to lit firecrackers and the appellant obstructed the same. It is not a dispute based on caste but it is initiated only upon using of firecrackers and the same cannot term as any act backed with the caste dispute, when the caste of the complainant is not established, offence under Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989 is not established.
- 12) For the foregoing, court is of the considered opinion that the finding arrived at by the trial Court is not sustainable and the same is set aside. The appellant is acquitted of the charges framed against him. He shall be set at liberty, if not required, in any other case. The appeal is accordingly allowed.

Sd/-
(Ram Prasanna Sharma)
JUDGE