

HIGH COURT OF CHHATTISGARH, BILASPUR

(SB: Hon'ble Mr. Justice Ram Prasanna Sharma)

CRA No. 808 of 2001

- Santosh s/o. Sukalu aged about 34 years, r/o.; Baede Murma, PS Parpa, District Bastar.

---- Appellant.

Versus

- State of Chhattisgarh through Police Station Parpa, District Bastar (CG).

---- Respondent

For Appellant : None

For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate.

**Oral Judgment on
(11-12-2017)**

1. This appeal is preferred against the judgment of conviction and order of sentence dated 2-8-2001 passed by Special Judge under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short, "the Act, 1989") Bastar at Jagdalpur in Sessions Trial No. 507 of 2000 wherein the said Court convicted the accused/appellant under Section 3(1)(x) of the Act, 1989 and Section 506 Part I of the IPC and sentenced him to undergo RI for one year and fine of Rs.1000/0 and RI for six months and fine of Rs.500/- with default stipulations.
2. As per prosecution case, complainant Tularam is a member of Scheduled Tribe whereas accused/appellant is not a member of Scheduled Caste or Scheduled Tribe. Complainant Tularam was Sarpanch and organised his centre for people of locality on 2-9-2000

in which accused/appellant was present. In the said meeting accused/appellant uttered words regarding caste of the complainant in order to bring down his reputation and in order to intentionally insulting and intimidating him. Again accused/appellant threatened the complainant to kill him or rope him in any criminal charge.

3. The matter was reported by the complainant to Police Station, Tribal Welfare, Jagdalpur on 3-9-2000. After registration of first information report, investigation was started by Deputy Superintendent of Police D.R.S. Pulke. After completion of investigation charge-sheet was filed against the accused/appellant. After completion of trial, the trial Court framed charges as mentioned above against the appellant, to which he did not plead guilty, therefore, trial was conducted and after completion of evidence of the prosecution side, statement of the appellant under Section 313 of the Cr.P.C., was recorded. After completion of trial, the trial Court considering the material available on record by the impugned judgment convicted and sentenced the accused/appellant as mentioned above.

4. The appeal is preferred on the following grounds.

i) that the words uttered by the accused/appellant do not amount abuse on the basis of caste and actually no objectionable words were uttered by the appellant and appreciation of the trial Court is perverse.

ii) that the statements of the prosecution witnesses are not reliable and case of the prosecution is based on doubtful piece of evidence.

iii) that there is no evidence regarding intimidation by the appellant, therefore, the finding arrived at by the trial Court is not in the fitness of factual matrix and legal aspect of the matter..

5. On the other hand, learned State counsel supporting the impugned judgment submits that the same is strictly in accordance with law which is not liable to be interfered invoking jurisdiction of the appeal.
6. I have heard learned counsel for the State, perused the judgment impugned and record of the trial court.
7. PW/1 Tularam is complainant of the case. He deposed that accused/appellant uttered words "Sale Dhurva" and threatened him to rope in any criminal charge and if he will report the matter then he would kill him. PW/2 Sahadev deposed that accused/appellant uttered words that mind of the complainant is not in fit condition. PW/5 Gunoram deposed some different words. As per version of this witness, accused/appellant uttered words that the complainant is only Sarpanch and he is not a big gun.
8. From the evidence of prosecution witnesses it is established that one meeting was organised by the complainant in which accused/appellant was present and all other members were also

present there only because of complainant was Sarpanch of the locality. It is not a case that the said meeting was organised on the basis of caste and no one was present there because complainant is a member of any specific community. No witness is examined to establish the caste of the complainant based on any document. There is no documentary evidence to establish the caste of the complainant. Unless offence is committed on the basis of caste, Section 3 (1)(x) of the Act, 1989 is not attracted. When caste of the complainant is not proved by the documentary evidence and when meeting was not organized on the basis of caste, it cannot be said that accused/appellant uttered any word to insult or intimidate the complainant on the basis of caste, therefore, offence under Section 3 (1)(x) of the Act, 1989 is not established. Except for the complainant no one stated before the trial Court that accused/appellant threatened the complainant.

9. There is nothing to convey firm determination to carry the threat into execution by the appellant. In order to bring home the guilt of the accused/appellant for offence under Section 506 Part 1 of the IPC, prosecution has to establish that accused/appellant was in a position to execute his threat.
10. Filthy abuses are not uncommon. It had no more significance than mere platitudinous utterances signifying the enraged state of the person's mind. In the case in hand, it is alleged that appellant had uttered words "Sale Dhurva". The words may come into the category

of mere vulgar abuses. In this way, in the present case, the words had sound and fury, but no substance. It may be said to be mere epithets. Using words without any significance is not enough to establish the offence under Section 506 Part 1 of the IPC, that is why the finding arrived at by the trial Court is not sustainable and the same is liable to be set aside.

11. In the result, the appeal is allowed. Conviction and sentence passed by the trial Court is set aside. The accused/appellant is acquitted of the charges framed against him. The appellant is reported to be on bail. His bail bonds stand discharged.

Sd/-
(Ram Prasanna Sharma)
JUDGE

Raju_

