

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Misc. Petition No.98 of 2017

State of Chhattisgarh through the Station House Officer, Police Station-Saja,
District Bemetara (CG).

---- **Appellant**

Versus

Dakwar Sahu S/o Sujan Sahu, age 42 years, occupation-Farmer/Labour,
R/o village Mahidahi, Police Station Saja, District Bemetara (CG).

---- **Respondent**

For Appellant

Shri Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

17/02/2017

1. For the reasons assigned in the application and finding them to be satisfactory, IA No.1 for condonation of delay is allowed and delay in filing this petition is condoned.
2. The present petition has been filed seeking for leave to appeal against the judgment dated 28.09.2016 passed by the Special Judge (Scheduled Caste/Scheduled Tribe, Prevention of Atrocities Act) Bemetara, (for short SC & ST Act), in Special (Atrocity) Case No.08/2015. Vide the said impugned order, the court below has acquitted the respondent accused from the offence under Section 354-A IPC and also Sections 3(1)(10) and 3(1)(11) of the SC & ST Act.
3. The case of the prosecution in brief is that an FIR was lodged by the victim, PW-7, Jamuna Bai, on 01.05.2015 in respect of an incident that took place on previous day i.e. 30.04.2015 at around 9 AM in the

morning. It is alleged by the complainant that the respondent showed her obscene and vulgar gestures with an intention to outrage her modesty. Thereafter she informed the matter to her Husband and subsequently filed an FIR.

4. After the investigation was complete, the matter was put to trial before the Special Judge SC & ST Act, Bemetara, where the case was registered as Special (Atrocity) Case No.08/2015. The present respondent was charged for the offence under Section 354-A IPC and also under Sections 3(1)(10) and 3(1)(11) of the SC & ST Act.
5. The prosecution in all examined as many as 10 witnesses whereas there was no witness examined on behalf of the defence.
6. The court below after conclusion of trial reached to the conclusion that the prosecution has not been able to produce sufficient evidence by which it can be said that charges levelled against the respondent has been proved beyond all reasonable doubts and thus, acquitted the respondent from the said charge.
7. Learned counsel appearing for the appellant submits that the court below has not properly appreciated the evidence of the complainant, victim, PW-7 Jamuna Bai. That PW-7 from her statement had specifically proved the incident to have been occurred and have also disclosed the nature of the offence said to have been committed by the respondent. Therefore, the order of acquittal is bad in law. He further submits that the case of the prosecution also stood corroborated from the statement of PW-8, Rajesh, Husband of the victim. Thus, prayed for grant of leave to appeal against the judgment impugned.

8. A perusal of judgment impugned and documents annexed in the petition however clearly reflects that it is a case where the complainant, victim, PW-7 herself has turned hostile and not supported the case of the prosecution. It is also reflected from the evidence of her Husband, PW-8, Rajesh, that the prosecution has not been able to disclose as to what was the obscene and vulgar gestures which were said to have been made by the respondent so as to bring home the offence under Section 354-A IPC. Likewise, from the pleadings it also reflects that the complaint which was lodged by PW-7 was with an intention of harassing the respondent for the reason that only on the previous day i.e. 30.04.2015 itself, the respondent accused had lodged a complaint against the complainant and her Husband in respect of altercation and assault which took place between the two families and that present complaint case has been filed only to counter the same.
9. In view of these two important witnesses not supporting the case of the prosecution giving rise to a great element of doubt on prosecution story, this court is of the opinion that it cannot be said that the findings arrived at by the court below was a perverse finding or a finding, contrary to the evidence. As such, the same cannot be said to be either illegal or improper in law.
10. This court does not find any strong case to be made out for grant of leave. Accordingly, the petition is dismissed.

Sd/-
(P. Sam Koshy)
Judge