

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 214 of 2017**

1. Basant S/o Chintaram Sahu, Aged About 41 Years R/o Village Sarda, Barela, District Durg, Chhattisgarh.
2. Matru S/o Shanker Dheemar, Aged About 36 Years R/o Village Sarda, Barela, District Durg, Chhattisgarh.
3. Shyam Lal S/o Chintaram Sahu, Aged About 35 Years R/o Village Sarda, Barela, District Durg, Chhattisgarh.
4. Pahalwan Alias Batwa, S/o Shyam Ratan Sahu, Aged About 45 Years R/o Village Sarda, Barela, District Durg, Chhattisgarh.

---- Appellants**Versus**

- The State Of M.P. Through P.S. D.M. Durg, Madhya Pradesh, Now Chhattisgarh.

----Respondent

For Appellants:

Mr. P.P. Sahu, Counsel

For State :

Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08.03.2017**

1. At the out set learned Counsel for the Respondent State submits that pending the Revision the Appellant No.2, Matru has expired on 03.06.2010.
2. Accordingly the Revision so far as Appellant No. 2, Matru is concerned stands abated.
3. The present Revision Petition has been preferred against the judgment of conviction dated 17.07.1998 passed in Special Case No. 219/1997 by the Special Judge, Durg. Vide the said impugned order the Appellants have been convicted for the offence under Section 294 IPC and have been sentenced to undergo Simple Imprisonment for 4 days and fine of Rs. 200/-

(each) with default stipulation.

4. Learned Counsel for the Appellant submits that the finding of the Court below is bad in law for the reason that a plain reading of the allegation which have been leveled against the Appellants herein would clearly reflect that it does not have specific details as to which of the Appellants have used what abusive language. The statement of the complainant as well as the complaint clearly reflects omnibus and general statement made against all the Appellants. He further submits that the evidence which have come on record also reflects that apart from the Appellants there were also a large number of other villagers gathered to oppose the complainant from using the village pond for agricultural purpose. He further submits that in absence of specific averments and proof by the complainant brought before the Court as to which of the Appellant had used what abusive language. It cannot be said that the case has been proved against each of the Appellants. Further from the cross examination of the complainant himself it clearly reflects that the complainant has a criminal track record and there were many criminal cases lodged against him. There appears to be vengeance in the mind of the complainant against the Appellants who were the office bearers of the concerned Panchayat. That as in the capacity of office bearers of the Panchayat the Appellants had objected the complainant from using the village pond for agricultural purposes, he seems to have falsely implicated them. Thus prayed for the impugned order to be set aside and the present Revision be allowed.
5. Learned State Counsel however opposing the Revision

submits that a perusal of statement of complainant at paragraph No. 5 & 6 clearly reflects the nature of abusive language used by the Appellants and which sufficiently proves the case beyond all reasonable doubts and therefore the impugned judgment does not warrant any interference.

6. A plain reading of Paragraph 5 and 6 of the statement of the Complainant reflects that he has used a word "अभियुक्त गण" which is a plural statement made by the complainant thereby it is not clear as to what was the specific overt act or abuse on part of each of the Appellants in as much as the complainant has not been able to establish as to which Appellant has used what abusive language. In the absence of which only on the basis of omnibus and general allegation made by the complainant, the guilt against the Appellants cannot be said to have established.
7. In view of the same the impugned judgment of conviction against the Appellants for the offence under Section 294 of the I.P.C. cannot be said to be proper, legal and justified. The impugned judgment therefore deserves to be and is accordingly set aside. The Appellants stand acquitted from the charges leveled against them.
8. The Appellants are on bail. Their bail bond shall remain operative for a period of 6 months in view of the provisions contained in Section 437-A of the Cr.P.C.
9. Accordingly, the present Revision Petition stands allowed.

Sd/-

(P. Sam Koshy)
JUDGE