

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 151 of 2018**

State of Chhattisgarh, Through Police Station- A.J.K. Korba, District:
Korba (C.G.)

---- **Petitioner**

Versus

1. Amarnath Agrawal, S/o Shri Ramavtar Agrawal, Aged About 47 Years, R/o Korba Kosabadi Chowk, Police Station Kotwali, District: Korba (C.G.)
2. Bihari @ Jitendra Sharma, S/o Shri Kamla Sharma, Aged About 56 Years, R/o Rampur Simddai, Police Station Barbidha, District Munger (Bihar).
Present Address- Baigin Darbar Rampur Korba, Police Station- Chowki Rampur (Kotwali) District: Korba (C.G.)

---- **Respondents**

For State/ Petitioner : Mr. Vivek Sharma, G.A.
For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

11/10/2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition which is supported with an affidavit of R.S. Mandavi.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 192 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.

4. This petition is preferred against judgment dated 29.03.2017 passed by Special Judge, Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act (for short "the Act, 1989"), Korba (C.G.) in Special Session Case No. 13/2013, wherein the said court acquitted the respondents for commission of offence Sections 294 & 506(Part-II) of IPC and Sections 3(1)(iv), 3(1)(v) & 3(1)(x) of the Act, 1989.
5. Land bearing survey No. 1135/1 area 0.40 dismill and survey No. 1150 area 0.54 dismill are subject matter of the case. Complainant- Gangaram is claiming his right over the said land, while the respondent party is saying that the said land is not in ownership of Gangaram and he never dispossessed from the said land.
6. The trial court opined that since demarcation under Section 129 of Chhattisgarh Land Revenue Code, 1959 is not done in the present case, therefore, it is difficult to hold that the land which was occupied by the respondents, is the land in question owned by Gangaram. From statement of Gangaram, it is clear that the respondents have removed his structure from the said land, therefore, there is no evidence that the land in question is still in possession of respondents and they have wrongful dispossessed the complainant- Gangaram and occupied on the said land.
7. From statement of the complainant- Gangaram, it is not clear that any of the respondent have intentionally insulted or intimidated him with intent to humiliate in any place within

public view, therefore, ingredients of offence under Sections 3(1)(iv) , 3(1)(v) & 3(1)(x) of the Act, 1989 are lacking in the present case.

8. So far as, offence under Section 294 of IPC is concerned, the complainant has not stated in his statement regarding obscene words. The respondents are charged under Section 294 of IPC, the essence of the crime under Section 294 of 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 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 person's mind. In the case on hand, the words uttered by the respondents are not clear, therefore, the words have no literal significance and it cannot fall in the purview of obscene words. From evidence, it is not established that the offence under Section 294 of IPC is made out.
10. In the present case, there is no evidence that respondents have threatened Gangaram to kill and they were determined to execute their threat. In absence of cogent evidence, offence under Section 506(Part-II) of IPC is also not established.

11. The trial court has elaborately discussed the entire evidence and this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
12. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge