

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 694 of 2013**

The State of Chhattisgarh, Through - District Magistrate, Raipur (C.G.)

---- Petitioner**Versus**Gajendra Kumar Sinha, S/o Ram Narayan, Aged About 29 Years, R/o-
R.D.A. Building D/ 103, D.D. Nagar, District- Raipur (C.G.)**---- Respondent**

For State/ Petitioner	:	Mr. Lav Sharma, Panel Lawyer.
For Respondent	:	Mr. M. K. Sinha, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****23/10/2018**

1. Heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against judgment dated 15.04.2013 passed by Judicial Magistrate First Class, Raipur (C.G.) in Criminal Case No. 21/2013, wherein the said court acquitted the respondent for commission of offence under Sections 294, 323 & 506 (Part-II) of IPC.
3. In the present case, name of the victim is Amit Mishra (PW-1). Though, he deposed before the trial court that respondent assaulted him, but his version is not supported by any medical evidence because no medical expert is examined before the trial court, therefore, charge under Section 323 of IPC is not established.
4. So far as, offence under Section 294 of IPC is concerned, the victim has not stated in his statement any word used by the respondent. The respondent is 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.

5. 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 respondent 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.
6. In the present case, for establishing offence under Section 506 (Part-II), there should be executable threat, but in the present case, evidence of threat is lacking. In absence of evidence, the offence under Section 506(Part-II) of IPC is also not established.
7. In overall assessment, 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.
8. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge