

HIGH COURT OF CHHATTISGARH, BILASPUR

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

CRMP No. 1094 of 2013

- State of Chhattisgarh through Station House Officer, Police Station Kotwali, Distt. Korba C.G. , Chhattisgarh

---- Petitioner

Versus

1. Santosh Kumar Bareth S/o Late Shri Bhojram Bareth Aged About 30 Years R/o Village Sukhri Kala, Police Chowki - Urga, Ps Kotwali, Korba C.G. , Chhattisgarh
2. Bundram Bareth S/o Pilan Bareth Aged About 67 Years R/o Village Sukhri Kala, Police Chowki - Urga, Ps Kotwali, Korba C.G. , District : Korba, Chhattisgarh

---- Respondents

For petitioner/State : Mr. Sanjiv Pandey, Govt. Advocate.

For Respondents : None

Order on Board

(28-08-2018)

1. Heard on application for grant of leave to appeal under Section 378(3) of the Code of Criminal Procedure, 1973.
2. It is an acquittal appeal against the judgment dated 29-8-2011 passed by the Special Session Judge under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short, the Act, 1989, Korba (CG) in Special Session Trial No. 48 of 2009 wherein the said court acquitted the respondents for commission of offence under Sections 325, 323 read with Section 34 of IPC and Section 3 (1)(x) of the Act, 1989.

3. It is is admitted by the complainant (PW/2) Vikram (para 9) that he has been prosecuted along with his father and mother for assaulting one Santosh by axe. From the evidence it is established that respondents' side namely Santosh Kumar Bareth and Bundram Bareth have reported against the complainant for assaulting and the complainant side were convicted by the court of Additional Sessions Judge. It is established that grievous injuries were caused to respondents while injuries found on the body of complainant Vikram and Koilar Bai were simple in nature, therefore, it may be a case of self-defence of body and any one acting in self-defence cannot be said to have committed any offence especially when simple injuries were found on the body of the complainant side.
4. From the evidence, it is also established that complainant Vikram constructed a house and left the place for some time and when he returned it was found that respondent Bundram possessed his land and that was the reason of conflict between the parties. The issue between the parties is possession of house and same is not based on any caste. If the house would not have been possessed, there was no occasion between the parties to have altercation or scuffle as mentioned in their statement. Therefore, the finding of the trial Court is based on proper marshaling of evidence and this court has no reason to

substitute a different opinion. It would not be proper for this court to summon the respondents again when they have already suffered full trial before the court below.

5. Accordingly, the application for grant of leave to appeal is rejected and consequently, the petition filed by the petitioner/State is also dismissed.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju_