

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment reserved on : 20/07/2018****Judgment delivered on :06/10/2018****CRA No. 910 of 2002**

- Pooran Singh, S/o Shri Lachhu, aged about 42 years, Occupation agriculturist, R/o. Village Koleng-Kadampara, P.S. Darbha, Distt. - Bastar (C.G.).

---- Appellant**Versus**

- State Of C.G., Through : Police Station – Scheduled Castes and Scheduled Tribes, Jagdalpur, Dist. Bastar (C.G.).

---- Respondent

For Appellant	:	Shri R.N. Jha, Advocate.
For Respondent/State	:	Shri Lav sharma, Penal Lawyer

Hon'ble Mrs. Justice Rajani Dubey**C A V Judgment****06/10/2018**

This appeal is directed against the impugned judgment dated 14.08.2002 passed by special Judge Scheduled Caste / Schedule Tribe (Prevention of Atrocities) Act, 1989 Bastar at Jagdalpur in Special Criminal Case No. 208/2002 convicting the appellant/accused for the offence punishable under Section 3 (1)(x) of the Act and sentencing him to undergo rigorous imprisonment for 1 year and pay fine of Rs. 2,000/- with default stipulation.

2. As per prosecution case, on **25.11.2001** villagers of village Kolang and Chindpur gathered in the village to convince/make the

villagers who had converted to Christianity. Accused/appellant Pooran Singh was also present there. Accused/appellant who belongs to Mehra Community and had converted to Christianity, started abusing the villagers in the name of their caste to humiliate and insult them. Written complaint Ex.P-1 was made by village Sarpanch Pandu, Durjan Ram, Buchhu Ram and Budhu Ram at police Station - Darbha on the basis of which FIR (Ex.P-3) was lodged against the accused/appellant vide Crime No. 08/2002.

3. In order to hold the accused /appellant guilty, the prosecution has examined 6 witnesses. Statement of the accused/appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. After hearing counsel for the parties, the trial court has convicted the accused/appellant for the offence as mentioned above. Hence, this appeal.

5. Heard counsel for the parties and perused the material available on record including the impugned judgment.

6. Learned counsel for the appellant submitted that the incident is of the year 2001 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Rules, 1995 came into force on 31.03.1995. As per Rule 7, an offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police appointed by the State Government/Director General of Police/Superintendent of Police. In the present case, the

FIR was written by Sub-Inspector Shri Kripa Ram Khande (PW-5). He was not the officer of the rank of Deputy Superintendent of Police. Even on merits, assuming for the sake of argument, the word of caste Dhurva was told by the appellants during a dispute, simply being spoken the word of caste Dhurva does not itself constitute offence under Section 3 (1) (x) because it lacks intentional insult or humiliation. Also, the caste certificate issued by the Sarpanch may not be held as certificate given under the authority as the certificate has to be issued by the Revenue Officer after due enquiry regarding the caste. Learned counsel for the appellants further submits that on the basis of aforesaid argument and facts offence under Section 3 (1) (x) of the Act, 1989 is not proved and the trial Court has not examined these aspects. Learned counsel for the appellant relied upon the judgments of the Chhattisgarh High Court in the matter of **Rambagas & Ors. Vs. State of M.P. (Now C.G.)** reported in **2015 (3) C.G.L.J. 112** and **Genddas Vs. State of M.P. (Now C.G.)** reported in **2015 (2) C.G.L.J. 478**.

7. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that findings recorded by the court below convicting the accused/appellant under Section 3 (1)(x) of the Act is strictly in accordance with law and there is no infirmity in the same.

8. In this case S.I Shri Kripa Ram Khande, (PW-5), who has written FIR is not an officer of the rank of D.S.P. Also no caste certificate was issued by the competent authority. Learned trial Court failed to see that the prosecution did not prove alleged offence under Section 3 (1)(x) of

S.C/S.T. Act. Even when it could not prove the alleged offence under Section 295-A of the IPC. After due consideration and cross examination of the witnesses, facts and circumstances and the evidence, the prosecution has failed to prove the essential ingredients of offence against the appellant under Section 3 (1)(x) of the Act.

8. Thus, the impugned judgment of conviction and sentence is set aside. Appeal filed by the appellant is allowed.

Sd/-
(Rajani Dubey)
Judge