

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 6 of 2010**

1. Ishwar Sahu S/o Shyam Lal Sahu, aged about 50 years, Occupation Agriculturist R/o Village Kusmunda, Police Station Arang, District Raipur (CG).
2. Devcharan Sahu S/o Ishwar Sahu, aged about 22 years, Occupation Agriculturist R/o Village Kusmunda, Police Station Arang, District Raipur (CG)

---- Appellants**Versus**

- State of Chhattisgarh through the Police Station Aarang, District Raipur (CG).

---- Respondent

For the appellants : Mr. M.L. Sakat, Advocate

For the respondent/State : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment on Board****6-10-2018.**

1. This appeal is preferred against the judgment of conviction and order of sentence dated 15-12-2009 passed by the Special Judge (under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Act, 1989") Raipur, in Session Trial No. 36 of 2009, wherein the said court convicted the appellants and under Section 3 (1)(x) of the Act, 1989 and under Section 294 of the IPC sentenced him to undergo RI for six months and fine of Rs.1000/- each and fine of Rs.1000/- each - with default stipulations.

2. The case of the prosecution is that on 15-3-2009 at about 5.00 pm at village Kusumund, Police Station Aarang, District Raipur, the appellants used abusive language against the complainant in public place and intentionally insulted or intimidated with intent to humiliate him who is a member of Scheduled Caste. The matter was reported to Police. During investigation, statements of the witnesses were recorded under Section 161 of the CrPC. After completion of the trial, the trial Court convicted the appellants as mentioned above.
3. To substantiate the charge, prosecution examined as many as six witnesses. PW/1 Ratanlal, PW/2 Dukhi Ram and PW/3 Manharan are the witnesses of the incident. As per version of these witnesses, appellants have made some barrier before their house and the Gram Panchayat of the said village was constructing the house for Anganbadi workers and they asked the appellants to remove their barrier that is why the incident took place. The incident did not occur on the basis of caste of the complainant Ratanlal, but it is a case of dispute regarding removal of barrier. Version of Ratanlal (PW/1) is different from version of Dukhi Ram (PW/2) and Manharan (PW/3) because all the three witnesses have deposed different words uttered by the appellants. As the version of these witnesses is contradictory in nature and again version of Ratanlal (PW/1) is contradictory to what is mentioned in FIR, it cannot be said

that the incident took place to intimidate or insult the complainant Ratanlal, therefore, offence under Section 3(1)(x) of the Act, 1989 is not established against the appellants.

4. So far as offence under Section 294 of IPC is concerned, all the three witnesses have uttered different words. In order to bring home the guilt of the accused for an offence under Section 294 of the 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 has no more significance than mere platitudinous utterances signifying the enraged state of the persons' mind. Words which have no literal significance cannot fall within the purview of obscene words. In the case in hand, version of all these three witnesses are contradictory regarding any abusive words and, therefore, it cannot be said that obscene words were uttered in public place, offence under Section 294 of IPC is also not established.
6. Accordingly, the appeal is allowed. Conviction and sentence passed by the trial Court against the appellants is set aside. The appellants are acquitted of the charges under Sections 3(1)(x) of the Act, 1989 and Section 294 of IPC. The appellants are reported to be on bail. Their bail bonds shall

continue for further period of six months in view of Section
437-A of the Cr.P.C.

Sd/-
(Ram Prasanna Sharma)
JUDGE

Raju