NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 54 of 2018

- Kanti Bai W/o Chhedilal Verma, Aged About 44 Years Resident of Village Devri, Police Station Bhatapara, Rural, Tehsil Bhatapara, District Baloda Bazar (Earlier District Raipur) Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Appellant

Versus

1. Vijay Chaitu Dande, Aged About 40 Years Resident of Village Devri, Police Station- Bhatapara Rural, Tehsil Bhatapara, District Baloda Bazar(Earlier District Raipur) Chhattisgarh., District : Raipur, Chhattisgarh
2. Saroj, W/o Vijay Dande, Aged About 35 Years Resident Of Village Devri, Police Station- Bhatapara Rural, Tehsil Bhatapara, District Baloda Bazar (Earlier District Raipur) Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For the Appellant : Mr. R.K. Pali, Advocate.
For the respondents : Mr. A.:P. Sharma, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

19-09-2018.

1. This acquittal appeal has been preferred against the judgment dated 30-11-2017 passed by the Judicial Magistrate First Class, Bhatapara, District Baloda Bazar (CG), in Criminal Case No. S-1252/2014, wherein the said court acquitted the respondents for commission of offence under Sections 452,

294, 506 Part II and 323 of IPC for committing the said offence against the appellant on 3-7-2008 at 6.00 pm at village Deori.

2. In the present case, name of the complainant is Kanti Bai. Kanti Bai (PW/1) deposed that respondents entered into her house and assaulted her by clubs. Version of this witness is not supported by the medical evidence because no medical expert is examined before the trial Court and no certificate regarding injuries on the body of the complainant Kanti Bai is produced.

3. To substantiate the charge, prosecution examined as many as four witnesses. As per version of Dageshwari Verma (PW/2), complainant Kanti Bai (PW/1) informed her that both the respondents assaulted her by clubs. When she reached in the house of Kanti Bai, both the respondents already left the place. PW/3 Chhediram Verma, who is husband of complainant Kanti Bai (PW/1) deposed that his wife informed him about the incident. PW/4 Nameshwari Verma deposed that respondents assaulted her mother and when she intervened in the matter, the respondents also assaulted her, but no medical certificate was produced before the trial Court regarding any injury on the body of Kanti Bai or Nameshwari Verma. In absence of medical evidence, charge under Section 323 of IPC is not substantiated.

4. It is a complaint case filed under Section 200 of the Cr.P.C. The case of the complainant is based on bald statement of witnesses, but there is no corroborative evidence regarding seizure of articles. Evidence is lacking as to what happened prior to the incident. Preparation of offence as mentioned in Section 452 of IPC is committed prior to commission of offence. For preparation of offence articles are collected and persons gathered who had to participate in the commission of crime, but no one deposed before the trial Court as to how many persons were gathered for committing the crime and what articles were collected for commission of offence, therefore, evidence for preparation of offence is lacking. Offence under Section 452 of IPC is also not substantiated.

5. For commission of offence under Section 294 of IPC, it has to be proved that words uttered were obscene in nature. In the present case, no witness stated before the trial Court as to what where the real words uttered during the course of offence. When no one deposed the actual words, it cannot be said that those words were obscene in nature constituting offence under Section 294 of the IPC. In absence of evidence, charge under Section 294 of IPC is also not established.

6. So far as offence under Section 506 Part II of IPC is concerned, complainant Kanti Bai (PW/1) deposed that respondents were saying that appellant will be subjected to

burn injury and they will throw petrol on the body of the appellant and caused burn to her. Version of this witness is contrary to what is mentioned in the complaint (para 5). In the complaint it is nowhere mentioned that any respondent threatened to kill the appellant by burning her by petrol.

7. From the evidence, it is nowhere established that any of the respondent was in possession of petrol. Section 506 Part II of IPC is attracted only when the person who gave threat is determined to execute the threat at spot. Bald statements are not sufficient to establish the charge. Words are fury but there is no substance to make out the case under Section 506 Part II of the IPC. The trial court has elaborately discussed all the relevant matter and came to conclusion that any of the charge is not established. After re-assessing the evidence, this court has no reason to substitute contrary finding against the finding of the trial Court.

8. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju