

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.801 of 2018**

- State Of Chhattisgarh Through Police Station Jaijaipur, District Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. Gammat Das S/o Shri Shanti Prasad Chandra, Aged About 52 Years R/o Village Bhothiya, Police Station Jaijaipur, District Janjgir Champa Chhattisgarh.
2. Rakesh Kumar S/o Shri Gammat Das Chandra, Aged About 30 Years R/o Village Bhothiya, Police Station Jaijaipur, District Janjgir Champa Chhattisgarh.
3. Shri Gunjan Chandra, S/o Shri Gammat Das, Aged About 34 Years R/o Village Bhothiya, Police Station Jaijaipur, District Janjgir Champa Chhattisgarh.

---- Respondents

 For the Petitioner/State : Shri Vivek Sharma, Govt. Advocate
 For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

22.10.2018.

1. Heard on application for grant of leave to appeal under Section 378(3) of CrPC.
2. This appeal has been preferred against judgment of acquittal dated 04.01.2018 passed by First Additional Sessions Judge, Sakti, Session Division Janjgir-Champa (CG) in Session Trial No.82/2015 wherein the said Court acquitted the respondents for the charges under Section 294 and 506 Part II of Indian Penal Code.
3. Though complainant Naresh Kumar (PW-1) deposed before the trial Court that some abusive language was used by the

respondents and threatened him but the same is not supported by other witnesses.

4. From the evidence of the prosecution, it is not established that any obscene words were used by the respondents. The essence of the crime under Section 294 of the 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 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 had not more significance than mere platitudinous utterances signifying the enraged state of the persons' mind. The words which have no literal significance cannot fall in the purview of obscene words. From the evidence it is not established beyond doubt that any obscene words were uttered by the respondents, thus offence under Section 294 IPC is not established against the respondents.

6. So far as offence under Section 506 Part II is concerned, there is no evidence that any of the respondent was determined to execute the threat. It is also not clear that who really uttered the words of threat. The evidence regarding threat is lacking and any words used by the respondents is just fury which is without substance. The trial Court has discussed this aspect of the matter

and found that charge under Section 506 Part-II is not established and this Court has no reason to record a contrary finding.

7. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

**Sd/-
(Ram Prasanna Sharma)
JUDGE**