

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Misc. Petition No. 1036 of 2018

- State Of Chhattisgarh Through Police Station Balaudabazar, District Balaudabazar, Chhattisgarh.

---- Petitioner

Versus

- Sajjad Khan @ Sajjoo S/o Shri Abdul Jabbar Aged About 39 Years R/o Village Pahanda Road, Police Station Balaudabazar, District Balaudabazar, Chhattisgarh.

---- Respondent

For Petitioner/State : Shri Vinod Tekam, Panel Lawyer

SB: Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

03.10.2018

1. Heard on the application for grant of leave to appeal filed under Section 378 (3) Cr.P.C.
2. The instant Cr.M.P. has been filed against the judgment dated 19.2.2018, passed by the Judicial Magistrate First Class, Balaudabazar (CG) in Criminal Case No. 1944/2012, wherein the said Court has acquitted the respondent from the charges under Sections 294, 506 Part II, 323 of the I.P.C.
3. In the present case, the respondent is husband of the complainant Shahida Bano who reported the matter. Shahida

Bano(PW1) and Shaba Khan (PW2) were examined before the trial Court, but no one has stated before the trial Court as to what were the obscene words uttered by the respondent.

4. For commission of offence under Section 294 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. Filthy abuses are not uncommon. It had no more significance than mere platitudinous utterances signifying the enraged state of the person's mind. In the case in hand, it is stated by the witness that the respondent had uttered some abusive words, but what words were uttered is not stated. The words which are uttered have no literal significance and that cannot fall in the purview of obscene words. In absence of any evidence, charge under Section 294 of the IPC is not established against.

5. So far as offence under Section 506 Part II of the IPC is concerned from the statements of Shahida Bano(PW1) and Shabha Khan (PW2) it is also not established that the respondent had threatened Shahida Bano to kill her. In absence of evidence charge under Section 506 Part II is also not established. Though Shahida Bano and Shabha Khan have deposed that the respondent had assaulted Shahida Bano by hands and fists, but no medical expert was

examined to substantiate their version. In absence of any medical evidence, it is not established that any injury was caused to the complainant Shahida Bano (PW1). Evidence on this part is lacking. Therefore, this Court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the present petition. Accordingly, the prayer for leave is rejected.

6. Consequently, Cr.M.P. stands dismissed.

Sd/

(Ram Prasanna Sharma)
JUDGE