

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1949 of 2018**

State of Chhattisgarh, through Police Station- Bhakara, District-
Dhamtari (C.G.)

---- **Petitioner**

Versus

1. Ajay Kumar Sahu S/o Ganesh Ram Sahu, Aged About 39 Years.
2. Murlidharn, S/o Ganesh Ram Sahu, Aged About 45 Years.
3. Nutan Sahu, S/o Ram Narayan Sahu, Aged About 28 Years.
4. Ganesh Ram, S/o Late Punau Ram Sahu Aged About 66 Years.

All are R/o Village- Gatapara, Police Station- Bhakhara,
District- Dhamtari (C.G.)

---- **Respondents**

For State/ Petitioner : Mr. Vivek Sharma, G.A.

For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

01/11/2018

1. Learned counsel for the State/ petitioner submits that he is not pressing I.A. No. 01/2018, application for condonation of delay in filing the petition, as there is no delay in filing the petition.
2. Accordingly, I.A. No. 01/2018 is treated to be withdrawn.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 08.05.2018 passed by Judicial Magistrate First Class, Kurud, District- Dhamtari (C.G.) in Criminal Case No. 589/2015, wherein the

said court acquitted the respondents for commission of offence under Sections 294, 506 (Part-II) & 323/34 of IPC.

5. In the present case, no one examined from prosecution side deposing about the real words uttered by any of the respondents. In absence of deposition of any specific words uttered by the respondents, it is not clear whether the words are obscene or not.
6. For establishing offence under Section 294 of IPC, the complainant has not stated in his statement any word used by the respondents. The respondents are charged under Section 294 of IPC, the essence of the crime under Section 294 of 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 IPC, the prosecution has to establish that the words uttered were obscene. The test of obscenity is whether the tendency of the matter charged as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.
7. 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 on hand, the words uttered by the respondents are not clear, therefore, the words have no literal significance and it cannot fall in the purview of obscene words. From evidence, it is not established that the offence under Section 294 of IPC is made out.

8. So far as, offence under Section 506 (Part-II) is concerned, the witnesses have deposed about oral threat, but from their evidence, it is not clear that any of the respondent was determined to execute threat or was possession of any article to commit their act in furtherance of their threat. In absence of determination of words uttered, it is mere fury which has no substance, therefore, offence under Section 506 (Part-II) of IPC is also not established.
9. Though, it is stated by Kamal Narayan Sahu (PW-5) that one Ajay Kumar assaulted him by axe and someone assaulted him by route of tree, but in overall assessment of the evidence, the trial court opined that it was scuffle between both sides for their boundaries and there is every possibility of injury during scuffle. It is not voluntarily caused by any of the respondents. Opinion of the trial court is one of the plausible view and this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
10. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge