

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 764 of 2003

- Pitambar Prasad Devangan alias Dau, Aged about- 19 years,
S/o- Shri Tika Ram Devangan, Labourer, R/o- village-
Taraigudapara, Hatkachora, Jagdalpur, P.S.- Bodhghat, District-
Bastar (C.G.) **----- Appellant**

Versus

- State of Chhattisgarh, through- P.S.- Scheduled Castes Welfare,
Jagdalpur, District- Bastar (C.G.) **----- Respondent**

For Appellant : Smt. C.K. Nawrang, Advocate.

For State/Petitioner : Shri Aman Kesharwani, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment on Board

10/12/2019

1. This appeal is preferred against the judgment dated 11th July, 2003 passed by Special Judge (F.T.C.), Jagdalpur, District- Bastar (C.G.) in Sessions Case No. 73/2003 wherein the said Court convicted the appellant for commission of offence under Sections 294 and 509 of IPC, 1860 and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and sentenced him to undergo R.I. for one month, R.I. for six months and R.I. for one year and fine of Rs. 1500/- respectively with default stipulations.
2. In the present case, the complainant Smt. Shyama Mandavi lodged F.I.R. on 09.11.2002. She filed a written report alleging that on 08.11.2002 seeing her alone the appellant taunted and abused her and sometime he entered in her house forcibly. He used to threaten to kill her. On the day of incident the appellant abused the complainant and forcibly entered in her house.

3. During the pendency of this appeal the complainant/prosecutrix compounded the offence and due to compounding, the appellant has been acquitted on the charge under Section 509 of IPC, 1860. As per Madhya Pradesh Amendment Act, 1999 vide enforce 21st May, 1999 offence under Section 294 of IPC is also compoundable which is compounded by the complainant, therefore, the appellant is acquitted for charge under Section 294 of IPC as per provision of Section 320(8) of Cr.P.C., 1973.
4. Learned counsel for the appellant submits that evidence adduced by the prosecution is contradictory in nature and same is not sufficient to bring home guilt, therefore, finding of the trial Court is liable to be set aside.
5. On the other hand, learned counsel for the State submits that finding of the trial Court is based on proper marshaling of evidence which is not required to be quashed while invoking jurisdiction of appeal.
6. I have heard learned counsel for the parties and perused the record of the Court below wherein judgment has been passed.
7. The question for consideration of this Court is whether complainant is insulted or intimidated by the appellant on the basis of caste. Complainant was examined before the trial Court as PW-2. After going through her statement, it is clear that she has deposed entirely different story than what is mentioned by her in F.I.R. i.e. Ex.P/5. From the entire evidence, it is clear that offence was committed against the complainant because she is opposite sex to the appellant. Anything is not committed on the basis of caste, therefore, it is not clear that she has been

intimidated or insulted on the basis of caste, therefore, Charge under Section 3(1)(x) of the Act, 1989 is not established.

8. Accordingly, the appellant is acquitted from the charge under Section 3(1)(x) of the Act, 1989.
9. Accordingly, appeal is allowed. Conviction and sentence imposed on the appellant is hereby set aside. The appellant is acquitted from said charge. The appellant is reported to be on bail. His bail bonds shall continue for further period of six months in view of Section 437-A of Cr.P.C.

Sd/-

(Ram Prasanna Sharma)
Judge