

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 973 of 2012**

Hasat Ram Dhirhe, S/o Jhunva Ram Dhirhe, aged about 56 Years, Occupation Principal, Govt. Boys Hr. Sec. School, Chhal, P.S. Chhal, District- Raigarh (C.G.) Permanent Address- Village-Dongia, P.O. Portha, District- Janjgir-Champa (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through- S.H.O., Police Station- Anusuchit Jati Awam Janjati Prakostha, Raigarh, District- Raigarh (C.G.)
2. Chatur Singh Rajput (Thakur), S/o Padumnath Singh Rajput, aged about 48 Years, R/o Village Chhal, P.O. Chhal, District- Raigarh (C.G.)

---- Respondents

For Petitioner	:	Mrs. Ranjana Singh Tomar, Advocate
For State/ Res. No. 1	:	Mr. Vijay Bahadur Singh, PL.
For Respondent No. 2	:	None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****24/04/2019**

1. Heard on I.A. No. 01/2012, application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, the same is allowed and delay of 419 days in filing the petition is condoned.
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 23.07.2011 passed by Special Judge, Raigarh, District- Raigarh (C.G.) in

Special Case No. 36/2009, wherein the said court acquitted respondent No. 2 for commission of offence under Section 3(1)(x) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 (amended 2015) (for short “the Act, 1989”) and Sections 294 & 506 (Part-II) of IPC, 1860.

5. In the present case, name of the complainant is Hasat Ram Dhirhe. It appears that he is a member of Schedule Caste/ Schedule Tribe being a member of Satnami. From his statement (Para 13), it is clear that earlier he threatened to Raghuram and Dewangan of Bonjiya School to involve them in any case related to special act i.e. the Act, 1989. He also admitted that the complaint was made against him when he threatened these persons for involving them in any case related to the special act.
6. From his statement, it is clear that earlier he was tenant of one Amarud Singh and respondent No. 2 was living behind his house. From his evidence, it is not clear that anything is done against him on the basis of caste. It is alleged that certain abusive words were used against him. Now the point for consideration before this Court is whether the words uttered by respondent No. 2 falls within mischief under Section 294 of IPC.
7. Respondent No. 2 is 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 charges as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.

8. 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 respondent No. 1 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.
9. For establishing offence under Section 506 (Part-II) of IPC, it has to be established that the respondent No. 1 was determined to execute his threat. From statement of witnesses, the only thing which is to be established is that the certain words were uttered at the time to incident. Mere uttering of words is not sufficient to bring home the guilt, unless the same is uttered with instant execution of threat, but that is not the case here. In absence of determination to execute the threat, the words uttered by respondent No. 1 are mere fury which have sound, but no substance, therefore, the charge under Section 506 (Part-II) of IPC is also not established.

10. When anything has not happened on the basis of caste, therefore, charge under Section 3(1)(x) of the Act, 1989/2015 is also not established.
11. The trial court has elaborately discussed the entire evidence and recorded finding of acquittal. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondent No. 2 should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
12. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge