

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 422 of 2007

Judgement reserved on 28.03.2019

Judgement delivered on 28.11.2019

Rishi Kumar Uikey S/o. Harish Chand Uikey, Caste Gond, Aged about 40 years, R/o. Gandhi Nagar, Murra Bhatee, Gudhiyari, P.S. Gudhiyari, Raipur District Raipur (C.G.)

---- **Applicant**

Versus

1. Sambhu Singh S/o. Pratap Singh Chouhan, Caste Rajput, Aged about 44 years, R/o. Shastri Nagar, Fokatpara, P.S. Ganj Raipur, District Raipur (C.G.)
2. Hemant Agrawal S/o. Late Radheshyam Agrawal, Aged about 47 years, R/o. Geetanjali Nagar, Raipur District Raipur (C.G.)
3. State of Chhattisgarh through Station House Officer, Police Station SC/ ST Raipur District Raipur (C.G.)

---- **Respondents**

For Applicant : Mr. Y.C. Sharma, Advocate.
For Respondent No.1 & 2 : Mr. Akash Kumar Kundu, Advocate
For Respondent No.3 : Mr. Aman Kesharwani, P.L

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

1. This revision is filed under Section 397/ 401 of Code of Criminal Procedure, 1973 against the judgment dated 29.09.2006 passed by Special Judge (Scheduled Caste and Scheduled Tribe) Prevention of Atrocities Act, Raipur in Special Case No. 190/2002; whereby the

accused/respondents are acquitted by the Court below of the charges under Sections 294, 323, 506 IPC and 3(i)(x) of Scheduled Caste and Scheduled Tribe Prevention of Atrocities Act.

2. As per prosecution case, complainant Rishi Kumar Uikey (PW-1) was the Secretary of Railway Vendor Association and the respondent No. 2 was the organizer and owner of Railway Canteen, Raipur. On 25.04.2002, one office bearer of vendor association informed the complainant that respondent no. 1 abused Lokesh Kawadiya and spoke ill of his association also. On this, the complainant inquired from respondent No.1 as to why he was abusing Lokesh Kawardiya and making false allegation against him. On this, the respondent No. 1/Sambhu Singh abused him also. Thereafter the complainant made a written complaint vide Ex.P-1 in GRP Thana, Raipur. Then the respondent No. 1 tendered apology for his act vide Ex.P-2 and the matter was compromised between them. Again, on the same date, at about 9. 00AM, both the respondents stopped him at plate-form No. 2 and abused the complainant in the name of his caste, slapped him on face and also threatened to kill him. Ultimately, the complainant made the report before Special Cell, Raipur and when the action was not taken by the Special Cell, Raipur, then the complainant made written complaint on 28.04.2002 before the Home Minister, State of Chhattisgarh and on the basis of said complaint, FIR Ex.P-13 was registered by Special Cell, Raipur only against the respondent No.1 under Sections 294, 323, 506 IPC and 3(i)(x) of Scheduled Caste and Scheduled Tribe Prevention of Atrocities Act. It is on filing of

application under Section 319 Cr.P.C. by the complainant, respondent No. 2 was made accused.

3. After registration of the case under the Special Act, the trial Court committed the case to the Special Court, Raipur wherein the Special Judge after recording the statement of witnesses has acquitted the respondents of above mentioned charges. Hence, this revision.
4. The contention put forth by the learned counsel appearing for the applicant is that in this case the evidence of the prosecution has proved the fact beyond all reasonable doubts that the respondents No. 1 to 2/accused have committed the alleged offence still the learned Special court on the basis of minor contradictions/omissions discarded the whole evidence and recorded acquittal in favour of the accused/ respondent No. 1 and 2 which is against the recognized principles of law and is liable to be set aside.
5. On the other hand, learned counsel for the respondents No. 1 to 2/accused contended that there is no illegality in conclusion arrived at by the trial court and the revision is liable to be dismissed.
6. Having heard counsel for the parties and perused the impugned judgment, it is clear that respondent No.2 was the owner and organizer of Railway Canteen, Raipur and the complainant was the Secretary of vendor association, Raipur. Earlier the complainant was working under the respondent No.2 as vendor and due to irregularities the job of complainant was terminated by respondent

No.2. The complainant made a complaint against the respondent No.2 in Consumer Forum for his termination. The respondent No. 2 made a counter case against the complainants. From the evidence of witnesses, it is clear that there was old animosity between the complainant and the respondents, therefore, the complainant being the Secretary of the vendor association roped the respondents in a false case. Record also shows that on 25.04.2002 at about 9 AM the report was lodged in Special Cell, Raipur but no action was taken against them. Subsequently, the complainant made written complaint to the Higher authority of State of Chhattisgarh and on the basis of which the Special Cell registered the complaint against the respondents/accuse. There are so many contradictions and omissions in the evidence of witnesses. Rajnarayan (PW-3), Jawahar Dubey (PW-6), Panna Lal Patel (PW-8), Shive Kumar (PW-2) are the office bearer of the association of vendor, therefore, the statements of these witnesses are not reliable. Pradeep Awasthi (PW-5) has not supported the case of the prosecution. The learned trial court while appreciating the evidence of the complainant and other witnesses found that the statements of the witnesses are full of contradictions and omissions on material particulars. Therefore, after critical evaluation of the evidence on record, it has been concluded by the Special court that the prosecution has not proved the charges by cogent and reliable evidence. Further, keeping in view the settled legal position that if the over all material gives rise to two possible and plausible views, the one beneficial to the accused has to be preferred and therefore

also this Court is not inclined to interfere with the impugned judgment of acquittal.

7. Resultantly, the revision fails and is hereby dismissed.

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh