

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved On 28.08.2019****Order Delivered On 28 .11.2019****CRR No. 362 of 2007**

- Nalini Meshram aged about 35 years W/o Santosh Meshram, By Caste Mahar, T/o Kedarbadi Dongargarh, District Rajnandgaon (C.G.)

---- Applicant**Versus**

1. Jitendra Kumar Soni aged about 40 years, S/o Ishwarlal Soni R/o Kamtee Line, in front of Central Bank, Rajnandgaon.
2. The State of Chhattisgarh through Police Station Dongargarh, District Rajnandgaon (C.G.)

---- Respondents

For Applicant	:	Mr. Shalvik Tiwari, Adv.
For Respondent No.1	:	Mr. Vinod Kr. Tekam, Adv.
For State/ Respondent No. 2:	:	Mr. B.L. Sahu, PL

Hon'ble Smt. Justice Rajani Dubey**C.A.V. Order****28.11.2019**

1. Challenge in the present revision petition is to the judgment and order dated 02.04.2007 passed by Special Judge, Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, Rajnandgaon in Special Case No. 45/2006 whereby the learned Court below has acquitted the accused/respondent of the offence under Sections 294, 323 & 506-II IPC and Section 3(1)(x) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. Brief facts of the case are that, the complainant (applicant

herein) filed FIR against respondent No.1 on the ground that on 20/04/2006 at about 2 PM, when applicant was at her home, one Komal Kumar and Sambha Tulkar started hurling abuses and beating the husband of the applicant and when applicant came to rescue her husband, she was also got reacted the same. Thereafter, respondent started abusing the applicant and her husband in the name of their caste in the open and public place. Matter was reported and after investigation charge-sheet has been filed and charges were framed against respondent No.1 as mentioned above in para 1.

3. Prosecution has examined 8 witnesses in support of its case. Statement of the respondent was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the charges levelled against him and pleaded innocence & false implication in the case.

4. After hearing the parties, the trial Court, vide its judgment dated 02.04.2007 has acquitted the accused/respondent of the offence punishable under Sections 294, 323 & 506-II IPC and Section 3(1)(x) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act. Hence, the present revision by the applicant, assailing the acquittal.

5. Learned counsel for the applicant submits that the impugned order dated 02.04.2007 passed by the Court below is illegal, perverse and contrary to law, and this order was passed without proper appreciation of the material available on record. He further submits that learned trial Court has committed grave error in acquitting the respondent of all the charges in spite of that the charges have been proved against the respondent. Applicant (PW-5) has clearly stated in her evidence supported by the other independent witnesses, that respondent had beaten her and used filthy language in the name of her caste and

nothing contrary has come out in the cross-examination. Applicant's evidence was also corroborated by Dr. Seema Jain (PW-1), who found the injury over the body of the applicant. He further submits that the applicant belongs to the reserve category and she is entitled for more protection in the society and to avoid the repetition of the same offence, respondent No. 1 is liable to be convicted.

6. In support of his argument learned counsel for the applicant placed reliance in the case of ***Satyajit Banerjee and Others. v. State of W.B. and Others [(2005) 1 SCC 115]***, ***Vimal Singh v. Khuman Singh and Another [(1998) 7 SCC 223]*** & ***State of Maharashtra v. Ashok Narayan Dandalwar [(2000) 9 SCC 257]***.

7. On the other hand, learned counsel appearing on behalf of respondent and State have supported the impugned order of the Court below and in support of their argument placed reliance in the case of ***Bindeshwari Prasad Singh Alias B.P.Singh and Others v. State of Bihar (Now Jharkhand) and Another [(2002) 6 SCC 650]*** and this Court's order in ***Bandhan Dubey v. Saroj W/o Late Madan Mohan Tiwari & Others [2017 LawSuit (Chh) 650]***.

8. Heard learned counsel for the parties and perused the material on record including the impugned order.

9. From perusal of statements of Nalini Meshram (PW-5), Santosh Kumar (PW-6), Imil Lakda (PW-8), Ex. D/4, Ex.D/5 & Ex. D/6, defence offered by respondent is a probable defence and learned trial Court has found that the prosecution has failed to prove its case beyond reasonable doubt and acquitted the respondent from all the charges. Even otherwise, present is a revision at the instance of complainant where the scope of interference by this Court in the order of acquittal under

revisional jurisdiction is limited. In the matter of *Bindeshwari Prasad Singh v. State of Bihar and another*, 2002 AIR (SC) 2907, the Supreme Court while dealing with the scope of interference in revision against acquittal observed as under:

“13. The instant case is not one where any such illegality was committed by the trial Court. In the absence of any legal infirmity either in the procedure or in the conduct of the trial, there was no justification for the High Court to interfere in exercise of its revisional jurisdiction. It has repeatedly been held that the High Court should not reappreciate the evidence to reach a finding different from the trial Court. In the absence of manifest illegality resulting in grave miscarriage of justice, exercise of revisional justification in such cases is not warranted.

14. We are, therefore, satisfied that the High Court was not justified in interfering with the order of acquittal in exercise of its revisional jurisdiction at the instance of the informant. It may be that the High Court on appreciation of the evidence on record may reach a conclusion different from that of the trial Court. But that by itself is no justification for exercise of revisional jurisdiction under Section 401 of the Code of Criminal Procedure against a judgment of acquittal. We cannot say that the judgment of the trial Court in the instance case was perverse. No defect of procedure has been pointed out. There was also no improper acceptance or rejection of evidence nor was there any defect of procedure or illegality in the conduct of the trial vitiating the trial itself. At best the High Court thought that the prosecution

witnesses were reliable while the trial Court took the opposite view. This Court has repeatedly observed that in exercise of revisional jurisdiction against an order of acquittal at the instance of a private party, the court exercises only limited jurisdiction and should not constitute itself into an appellate court which has a much wider jurisdiction to go into questions of facts and law, and to convert an order of acquittal into one of conviction. It cannot be lost sight of that when a re-trial is ordered, the dice is heavily loaded against the accused, and that itself must caution the Court exercising revisional Jurisdiction. We, therefore, find no justification for the impugned order of the High Court ordering re-trial of the appellants.”

10. On the basis of aforesaid discussions, this Court is of the opinion that the trial Court has not committed any illegality or irregularity while passing the impugned order acquitting respondent No.1 of the charges under Sections 294, 323 & 506-II IPC and Section 3(1)(x) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act. The findings recorded by the Court below have been arrived at after due appreciation of the evidence, oral and documentary available on record and, as such, do not require any interference by this Court.

11. Accordingly, the revision being without any substance is liable to be dismissed and is dismissed as such.

**Sd/-
(Rajani Dubey)
JUDGE**