

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1162 of 2017

State of Chhattisgarh, Through - The Police Station Badgaon,
District – Kanker (C.G.)

---- **Petitioner**

Versus

Vikas Vaidh @ Vikas Vaidya, S/o - Shri Vishnupad Vaidya,
Aged about - 19 years, R/o - Badgaon, P.S. - Badgaon, District
- Kanker (C.G.)

---- **Respondent**

For State/ Petitioner : Mr. Ravish Verma, Govt. Advocate

For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

16/05/2019

1. Heard on I.A. No. 01/2017, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in (1996) 3 **SCC 132**, the delay of 147 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 27th December, 2016 passed by Special Judge [Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

(amended Act 2015)], North Bastar Kanker (C.G.) in Special Case No. 42/2016, wherein the said Court acquitted the respondent for commission of offence under Sections 294, 506 Part - II, 448, 352 of the IPC, 1860 & Sections 3(1) (x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amended Act, 2015).

5. In the present case, name of the prosecutrix is Smt. Devay Soni and date of incident is 15th October, 2015. To substantiate the charge, the prosecution examined as many as 8 witnesses. No one deposed before the trial Court the actual words uttered by the respondent at the time of incident in a school. In absence of statement regarding actual words, it is not clear that any obscene words were used by the respondent.
6. The respondent 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.
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 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.

8. For establishing offence under Section 506 of IPC, it has to be established that the respondent 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 are mere fury which have sound, but no substance, therefore, the charge under Section 506 of IPC is also not established.
9. From the evidence, it appears that one student of class 10th namely Seema Mandavi felt sick that is why one person from Government Hospital, Badgaon came to school and went away after providing medical assistance and at the same time, the respondent entered into the school as correspondence of newspaper and he was willing to get this news on publication in newspaper, therefore, it cannot be held that the respondent entered with intension to commit offence or to cause annoyance to anyone. It is not established that any assault is made by the respondent.

10. The trial Court after evaluating the evidence recorded that house trespass and assault on part of the respondent is not established. The respondent entered into the school to collect some news. It is not an act committed on the basis of caste. If act is not committed on the basis of caste, charge under Section 3 (1) (x) of Act 1989, is not established.
11. After going through the records it is not a case where any interference of this Court is required. The trial court has elaborately discussed the entire evidence and came to conclusion that the charges leveled against the respondent is not established. After reassessing the same, 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.
12. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge