

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 692 of 2013**State of Chhattisgarh, Through - District Magistrate, Raipur
(C.G.)**---- Petitioner****Versus**Amit Mishra, S/o - Matulal Mishra, Aged about - 29 years, R/o
- R.D.A. Building, D/103, D.D. Nagar, District - Raipur (C.G.),**---- Respondent**

For State/ Petitioner : Shri A. N. Bhakta, Dy. Advocate General

For Respondent : Shri Raja Sharma, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****08/04/2019**

1. Heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against judgment dated 15th April, 2013 passed by Judicial Magistrate First Class, Raipur (C.G.) in Criminal Case No.93/2013, wherein the said court acquitted the respondent for commission of offence under Sections 294, 506-B, 323 of IPC, 1860.
3. In the present case, name of the complainant is Gajendra Sinha (PW-1). As per version of this witness on the date of incident the respondent came to collect money of waste paper from the complainant, there the respondent assaulted the complainant and threatened him to kill, but the evidence regarding abusive word is completely lacking for consideration for offence under Section 294.
4. The essence of the crime under Section 294 of the 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 the IPC the prosecution has to establish that the words uttered were obscene. The test of obscenity is whether the tendency of the matter charged as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.

5. Filthy abuses are not uncommon. It had not more significance than mere platitudinous utterances signifying the enraged state of the persons' mind. The words which have no literal significance cannot fall in the purview of obscene words. From the evidence it is not established that any obscene words were uttered by the appellant, thus offence under Section 294 IPC is not established.
6. Complainant himself did not depose that any abusive word is used against him to charge under Section 294 of IPC, therefore, charge under Section 294 is not established.
7. Charge under Section 506 Part II is established only when any person is determined to execute his threat on the spot but in the present case, there is nothing on record to substantiate that the respondent was determined to execute his threat to complainant on the spot. Therefore, bald statement of the complainant is nothing but words of fury which is only sound but of no substance. Therefore, charge under Section 506 part II is also not established.
8. Though, the complainant deposed that the respondent assaulted him but no corroborative medical evidence is adduced by the prosecution before the trial Court.

Complainant himself deposed before the trial Court that there is settlement between parties that is why he is not willing to prosecute the case. In absence of evidence of medical evidence, charge under Section 323 of IPC is also not established.

9. The trial court has elaborately discussed the entire evidence and came to conclusion that the charges leveled against the respondent are not established. After reassessing the entire evidence, 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.
10. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge