

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1638 of 2018

- State of Chhattisgarh, through- P.S.- Duldula, District- Jashpur (C.G.)

---- Petitioner

Versus

- Bandhan Ram, S/o- Prabhu Dayal Ram, Aged about- 29 years, R/o- Village- Khatanga, P.S.- Duldula, District- Jashpur (C.G.)

---- Respondent

For State/Petitioner : Shri Ishwar Jaiswal, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

12/12/2019

1. Heard on I.A. No. 01/2018, which is an application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, delay of 162 days in filing the instant 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 the judgment dated 6th November, 2017 passed by Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Jashpur, (C.G.) in Special Case No. 21/2016 wherein the said Court acquitted the respondent for charge under Sections 294 and 506 Part-II of IPC, 1860 and under Section 3(1)(s) of the Act, 1989/2015.
5. In the present case, the complainant is Smt. Bhagmani Nirala (PW-10). The incident took place on 17th November, 2016 at

12:00 pm at village- Khatanga where one meeting was convened for working of Gram Panchayat. The people were gathered there for improvement in work of Gram Panchayat and no one was appeared in the said panchayat on the basis of caste, therefore, it is not a case where people were gathered on the basis of caste. Though the complainant (PW-10) deposed before the trial Court that some filthy abuses were uttered by the respondent and threatend her, but from entire statement of the witnesses it is not clear that anything is done on the basis of caste, therefore, charge under Sections 3(1)(r) and 3(1)(s) of the Act, 1989/2015 is not established.

6. From the evidence of the prosecution, it is not established that any obscene words were used by the respondent. 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 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 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 beyond doubt that any obscene words were uttered by the appellant, thus offence under Section 294 of IPC is not established against the appellant.

8. In the present case, the words uttered cannot be called when obscene words, therefore, charge under Section 294 of IPC is not established.
9. From the version of the complainant and other witnesses, the respondent uttered some words of threatening but for commission of offence under Section 506 Part-II it has to be established that person determined to execute his threat. The respondent was not having any weapon to execute his threat, therefore, words uttered mere fury which has sound, but no substance, therefore, charge under Section 506 Part-II of IPC is also not established. The trial Court has elaborately discussed the entire evidence and recorded finding of acquittal. After re-assessing the entire evidence, this Court has no reason to take a contrary view, it is not a case where interference of this Court is required in the judgment of the trial Court. It is not a case where the respondent should be called for full consideration of this petition.
10. Accordingly, the application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge