

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1923 of 2018**

- State Of Chhattisgarh Through Police Station, Lundra, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner**Versus**

1. Kabir Ram S/o Jagan Ram Aged About 41 Years
2. Budhram S/o Jagan Ram Aged About 56 Years
3. Suresh Nageshiya S/o Shambhu Ram Nageshiya Aged About 30 Years
4. Sukhram S/o Moutha Ram Nageshiya Aged About 56 Years

All are R/o Village- Dadgaon, Police Station- Lundra, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

 For Petitioner : Mr. Vijay Bahadur Singh, P.L.
 For Respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****15.1.2019**

1. Heard on I.A.No.1, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, same is allowed and delay of 78 days in filing the petition is hereby condoned.
3. Also heard on the application filed under Section 378(3) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
4. This petition is preferred under Section 378 (3) of the Code of Criminal Procedure, 1973 against order dated 13.3.2018, passed by Judicial Magistrate First Class, Ambikapur, District Surguja (C.G.) in Cr. Case No.721/2012, wherein the said court has

acquitted all the respondents for the charges under Sections 294, 506 Part II and 323 r/w Section 34 of the I.P.C.

5. In the present case, victim/complainant is Vijay Kumar Gupta (PW2). From the statement of the complainant, it is not clear as to what were the words used by any of the respondent during altercation. The other witnesses have also not deposed any word which is said to be obscene.
6. For commission of offence under Section 294 IPC, it has to be established that obscene words are uttered in public place to cause annoyance.
7. 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 to be deprave and corrupt those whose minds are open to such immoral influences.
8. Filthy abuses are not uncommon. It had not more significance than mere platitudinous utterances signifying the enraged state of the person's mind. The words which have no literal significance cannot fall in the purview of obscene words. From the evidence it is not specifically established beyond doubt that any obscene words were uttered by any of the specific respondent, thus offence under Section 294 IPC is not established against the respondents.
9. In absence of particular word, it cannot be held that any of the respondent uttered obscene words in public place to cause

annoyance to the complainant, therefore, charge under Section 294 IPC is not established.

10. It is not the version of the complainant that any of the respondent threatened him to kill. In order to establish charge under Section 506 Part II IPC, it has to be established that any of the respondent was determined to execute threat. In absence of any evidence of determination of threat, charge under Section 506 Part II IPC is also not established.
11. Vijay Kumar Gupta (PW2) is victim of the incident. Apart from his statement no one is eye-witness to the incident. Jeera Bai (PW1) who is wife of the victim, said that when she reached to the spot, she found the victim fell down on surface. She further deposed that the accident took place because of motorcycle of the victim and the victim has also admitted that he sustained injuries in motorcycle accident.
12. Though there is evidence of medical expert, who found injuries on the body of the victim, but the fact remains that from the statement of prosecution witnesses, he sustained injuries due to accident. Looking to the entire evidence, the trial Court opined that it is not proved beyond the shadow of doubt that the injuries sustained by the victim is due to assault by any of the respondent. The view taken by the trial Court is one of the plausible views and when two views are possible, the view which is favourable to the accused/ respondent should be accepted. The finding of the trial Court is based on relevant material placed on record and same is not based on extraneous or irrelevant material.

13. In view of the above, the finding recorded by the trial Court is not to be substituted by this Court. It is not a case where the respondents should be called for full consideration of the case. Accordingly, the prayer for leave to appeal is rejected.
14. Consequently, Cr.M.P. stands dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge

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