

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 625 of 2019

State of Chhattisgarh, Through- The Station House Officer,
Police Station Ajk, Raigarh, District- Raigarh (C.G.)

---- Appellant

Versus

1. Sher Singh, S/o- Joidha Singh Gabel, Aged about- 35 years, R/o- Village Gadabodri, Police Station and Tahsil Kharsiya District- Raigarh (C.G.)
2. Joidha Singh, S/o- Chandan Singh Gabel, Aged about- 58 Years, R/o- Village Gadabodri, Police Station and Tahsil- Kharsiya, District- Raigarh (C.G.)

---- Respondents

For State/ Petitioner : Mr. Ravish Verma, G.A.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

13/11/2019

1. Heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This appeal is preferred against the judgment dated 23rd March, 2013, passed by Special Judge under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, District- Janjgir- Champa (C.G.) in Special Case No.37/2010, wherein the said Court acquitted the respondents for offence punishable under Sections 341, 294, 327 & 506-B of Indian Penal code, 1860 and under Section 3 (1) (x) of the [Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (amended Act 2015)]. While the said Court

convicted them for offence under Section 323 read with Section 34 of IPC, 1860.

3. In the present case, name of the appellant/complainant is Mahettar Ram Sidar (PW-8) who is working as teacher at one school near Meengaon. The appellant/complainant was assaulted by the respondents on account of illegal demand of Rs. 10,000/- at village Gadabodgi.
4. To substantiate the charge under Section 294 of IPC, it has to be established that obscene words were uttered by any of the respondents in public place to cause annoyance but no evidence produced against the respondents. Therefore, charge under Section 294 of IPC is not established.
5. Again, there is no evidence that the respondents were determined to execute his threat on the spot, therefore, Trial Court opined that charges under Section 506 of IPC is also not established.
6. For commission of offence under Section 327 of IPC, it has to be established that voluntary hurt is caused for the purpose of extorting money from the sufferer but the evidence is not sufficient to establish the said charge. From the evidence, it appears that some assault was made but it was not for extorting money. Therefore, charge under Section 327 of IPC is also not established.
7. As held by the Trial Court, it is not established that any of the respondents restrained the appellant/complainant from

moving to any direction, therefore, charge under Section 341 of IPC is not established.

8. Again, it is not established that anything done on the basis of caste from the respondents or having knowledge regarding caste of the complainant. Therefore, Trial Court recorded finding of acquittal under Section 341 of IPC. The Trial Court convicted the respondents only for charge under Section 323 read with Section 34 of IPC.
9. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondents is not established. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondents 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