

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2081 of 2018**

- State Of Chhattisgarh Through Station House Officer Police Station Jashpur District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh

---- Petitioner**Versus**

1. Jahroo Singh S/o Dugha Singh Aged About 71 Years R/o Village Moradih District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh
2. Shavitri Bai W/o Rameshwar Singh Aged About 35 Years R/o Village Moradih District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh
3. Rameshwar Singh S/o Jaharu Aged About 40 Years R/o Village Moradih District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh

---- Respondents

For Petitioner : Shri Ravish Verma, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

08.01.2019

1. Heard on I.A.No.1/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, the same is allowed and delay of 37 days in filing the petition is condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (3) Cr.P.C.
4. The instant Cr.M.P. has been filed seeking leave to appeal against the judgment dated 27.4.2018, passed by the Special Sessions Judge under the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act 1989, District Jashpur(CG) in Special SC/ST Case No. 9/2017, wherein the said Court has acquitted all the respondents of the charges under Sections 294, 506 Part II and Section 3 (1) (r) and (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989/ Amendment Act, 2015.

5. In the present case no one deposed before the trial Court regarding actual obscene words which were uttered by any of the respondent. In absence of statement about actual obscene words charge under Sections 294 IPC is not established because it has to be established that obscene words uttered in public place caused annoyance to people at large present on public place.

6. 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.

7. 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.

8. There is general and bald statement regarding threatening but the same is not sufficient to establish charge under Section 506 Part II of the IPC. It is not in evidence that any of the respondent has determined to execute his threat. It is not established that any of the respondent was determined to execute threat on the spot. In absence of determination, the words uttered are mere fury which is without substance and it is not sufficient to establish the charge under Section 506 Part II IPC. No one deposed that the incident took place on account of caste. The quarrel initiated because daughter of the complainant namely Jairam Bhagat kept mud removed from one place in front of the door of the respondent. This act cannot be termed as an act on the basis of caste of any of the party.

9. The trial Court has evaluated the evidence in its entirety and came to the conclusion that the above said offences are not established. It is a case of plain acquittal. The trial Court has convicted the respondents for commission of offence under Section 323/34 IPC. Acquittal for rest of the offences is substantiated by the evidence of prosecution and this Court has no reason to substitute a contrary finding. 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.

10. Consequently, Cr.M.P. stands dismissed.

Sd/

(Ram Prasanna Sharma)

Judge

