

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2609 of 2018**

- State Of Chhattisgarh Through The Station House Officer, Police Station Darima District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner**Versus**

1. Kanak Sai S/o Motiram Aged About 17 Years R/o Village Kanthi ,thana Darima ,district Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
2. Siya Ram S/o Kanak Sai Rajwar Aged About 41 Years R/o Village Kanthi ,thana Darima ,district Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
3. Ram Awtar S/o Kanak Sai Rajwar Aged About 51 Years R/o Village Kanthi ,thana Darima ,district Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
4. Govardhan S/o Motiram Rajwar Aged About 71 Years R/o Village Kanthi ,thana Darima ,district Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
5. Ramprasad S/o Govardhan Rajwar Aged About 71 Years R/o Village Kanthi ,thana Darima ,district Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
6. Shukla Ram S/o Ram Awtar Aged About 30 Years R/o Village Kanthi ,thana Darima ,district Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
7. Ram Chalitr Ram S/o Kanak Ram Aged About 43 Years R/o Village Kanthi ,thana Darima ,district Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

 For Petitioner/State : Mr. Vijay Bahadur Singh, P.L.
 For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****01/02/2019**

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, same is allowed and delay of 82 days in filing the petition is hereby condoned.

3. Also heard on the application filed under Section 378(4) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
4. This petition is preferred under Section 378 (4) of the Code of Criminal Procedure, 1973 against order dated 8.6.2018, passed by Judicial Magistrate First Class, Ambikapur, District Sarguja(C.G.) in Cr. Complaint Case No. 2546/2011, wherein the said court has acquitted all the respondents for the charges under Sections 294, 506 Part II and 447 of the I.P.C.
5. In the present case, charge under Section 447 IPC is levelled against the respondent for entering into the land bearing Khasra No. 301/1, area 0.396 hectare situated at village Kanthi and in possession of the complainant namely- Maya and Shatrughan Swarnakar. From the evidence of Patwari, Rahul Singh (PW5), it is established that respondent Kanak Sai was in possession of the land in question. Version of this witness is rebutted the version of Shatrughan (PW1) and Maya who claimed possession of theirs on the said land, therefore, the trial Court opined that possession of the complainant is not established from the evidence adduced by the prosecution therefore, charge levelled under Section 447 IPC is not established.
6. For commission of offence under Section 294 IPC, Shatrughan (PW1) deposed that the respondents have used abusive words. Statement of this witness is bald and general in nature. Charge under 294 IPC is specific related to specific person. General statement is not sufficient to establish the charge against all the 7 respondents.

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. So far as offence under Section 506 Part II IPC is concerned, it is not established that any of the respondent was determined to execute his threat. Mere words of threat is not sufficient to establish charge under Section 506 Part II IPC. This charge is also specific in nature. Statements of the witnesses are bald and general in nature. When evidence is not against any of the specific respondent, general statement is not sufficient to establish charge against all the respondents.
10. The trial Court has discussed the entire evidence and came to the conclusion that charges levelled against the respondents are not established. After re-assessing the evidence, this Court has no reason to interfere with the finding recorded by the trial Court and 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.

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

Sd/
(Ram Prasanna Sharma)
Judge