

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 22 of 2019**

State of Chhattisgarh, Through the Station House Officer, Police
Station Badegaon, District- Kanker (C.G.) ----- **Petitioner**

Versus

1. Smt. Lalita Sharma ,W/o Girish Narayan, Aged About 45 Years.
2. Smt. Manju Jaiswal, W/o Phulchand Jaiswal, Aged About 42 Years.
3. Smt. Sultana Sinha, W/o Makhan Sinha, Aged About 38 Years.
4. Smt. Arti Vaidya, W/o Vishnupad, Aged About 38 Years.
5. Smt. Bharti Jaiswal, W/o Harichand Jaiswal, Aged About 36 Years.
6. Smt. Manju Badhai, W/o Ishwar Badhai, Aged About 35 Years.
All R/o Village Badgaon, Police Station Badgaon, District-
Kanker (C.G.) ----- **Respondents**

For State/ Petitioner : Mr. Raghvendra Verma, G.A.

For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****15/02/2019**

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 32 days in filing the 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 judgment dated 03.07.2018 passed by Special Judge (Atrocities), North Bastar, Kanker (C.G.) in Special Criminal Case No. 45/2017, wherein the said court acquitted all the respondents for commission of offence under Sections 147/149, 506 (Part-II), 294 of IPC, 1860 & Section 3(1)(s) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 read with Section 149 of IPC, 1860.
5. In the present case, name of the complainants are Mangla Devi, Koushilya Bai & Ahilya Netam. All the witnesses have deposed against all the six respondents by general and bald statement. Section 294 of IPC will apply to a person who utters any obscene word in or near any public place to annoyance of the others, therefore, charge should be specific for any individual person and the words uttered against him/her should also be specific. This offence cannot be established by general and bald statement against a number of persons. When a number of persons are involved in criminal case, act of each should be specifically mentioned otherwise, there is every possibility of punishing an innocent person. Looking to the entire evidence which is general and bald in nature, the trial court opined that the charge under Section 294 of IPC is not established.
6. The respondents are charged under Section 294 of IPC, the essence of the crime under Section 294 of 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 IPC, the prosecution has to establish that the words uttered were obscene. The test of obscenity is whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences.

7. Filthy abuses are not uncommon. It had no more significance than mere platitudinous utterances signifying the enraged state of the person's mind. In the case on hand, the words uttered by the respondents are not clear, therefore, the words have no literal significance and it cannot fall in the purview of obscene words. From evidence, it is not established that the offence under Section 294 of IPC is made out.
8. The charge under Section 506 (Part-II) of IPC is also specific in nature. It will apply to a person who intentionally threatens another with intent to cause a person to do any act which is legally bound to do or intimidate to do any act with that person is legally entitled to do. For establishing offence under Section 506 (Part-II) of IPC, it has to be established that the respondents were determined to execute their threat on the spot.
9. In the present case, one meeting was organized in the office of Panchayat for conduction of shop of public distribution material where a number of irregularities raised by the person present on the said Panchayat. From the evidence of all the

witnesses, it is not established that any of the respondent was determined to execute their threat. The words, if any, uttered, is mere fury which has no substance, but the same is mere words of threat without consequences. The trial court after assessing the entire evidence opined that the charge under Section 506 (Part-II) is not established.

10. A meeting was convened for people of the locality at large and it was not organized on the basis of any caste, therefore, anything happened in the instance case was not intended to harm anyone on the basis of caste. When a meeting was organized for solving the problem of the person residing in the area of the Gram Panchayat, it cannot be said that such assembly was unlawful assembly for committing any offence as defined under Section 141 of the IPC, 1860, therefore, it is not a case where unlawful assembly is made in furtherance of any common intention.
11. After reassessing the entire evidence, this Court has no reason to substitute contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
12. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge