

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 48 of 2011

Pratap Singh, S/o Shatrughan Rajput, aged about 38 years, R/o Village- Kusumkasa, Police Line Rajhara, District- Durg (C.G.)

---- Appellant

Versus

State of Chhattisgarh, through: Police Station- Rajhara, District- Durg (C.G.)

---- Respondent

For Appellant : Mr. Arvind Kumar Dubey, Advocate.

For State/respondent : Mr. Ishwar Jaiswal, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

22/01/2020

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against judgment dated 30.11.2010 passed by Special Judge (Schedule Caste and Schedule Tribe (Prevention of Atrocities), Act, Durg (C.G.) in Special Case No. 21/2010, wherein the said court convicted the appellant for commission of offence under Section 506 (Part-II) of IPC, 1860 and sentenced to fine of Rs. 5000/- with further default stipulations.
2. In the present case, complainant is B.R. Khunte who is Range Officer in Forest Department of the State. It is alleged that on 26.03.2010 when the complainant was returning from Balod to Dallirajhara in the way he saw that one of the forest barrier was broken then he stopped and asked about who has broken the barrier and at the same time, the appellant who is a Forest

Guard working as subordinate of the complainant came and wished the complainant and asked him that when he will supply charge-sheet to him. The complainant informed him that the charge-sheet shall be supplied within 45 days and thereafter, the appellant abused him and threatened him. The matter was reported, the appellant was charge-sheeted and after completion of trial, the trial court convicted as mentioned above.

3. Learned counsel for the appellant submits as under:-
 - (i) The ingredient of Section 506 (Part-II) is not established in the present case and the complaint was filed on the basis of personal grudge which was overlooked by the trial court.
 - (ii) The independent witnesses have not supported version of the prosecution and their version is contradictory to version of the complainant.
 - (ii) The trial court has not evaluated the evidence properly, therefore, the finding arrived at by the trial court is liable to be set aside.
4. On the other hand, learned counsel for the respondent submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.
5. I have heard learned counsel for the parties and perused the records.

6. The only question for consideration before this Court is whether the appellant intimidated the complainant to kill and whether any act of the appellant falls within mischief of Section 506 (Part-II) of IPC. B.R. Khunte (PW-1) deposed before the trial court that when he stopped to see the broken barrier, the appellant abused him and threatened him to kill. The same is the version of Dhaneshwar (PW-2). Rest of the witnesses are either related to the investigation after registration of FIR and some have not supported version of the prosecution.
7. In the present case, there is no factum of determination on the part of the appellant to execute any kind of threat. The only evidence adduced against him is that he uttered some words regarding threat. There is nothing on record to establish that the appellant was in position to execute his threat or he was determined for execution of threat.
8. Now the point for consideration before this Court is whether any words uttered is sufficient to establish charge under Section 506 (Part-II). In view of this Court, when the appellant was not having any weapon in his possession and the incident took place because of non-supply of charge-sheet, any words uttered in that moment is mere fury which has sound, but no substance. For holding guilty of the said offence, mere words are not sufficient. Anything which is uttered for showing physical or mental power cannot be equated with intimidation, therefore, even if the evidence is taken in its entirety, the

charge under Section 506 (Part-II) of IPC is not established, therefore, the finding arrived at by the trial court is not sustainable.

9. Accordingly, the appeal is allowed at motion stage itself. Conviction and sentence passed by the trial court is set aside. The appellant is acquitted of the charge under Section 506 (Part-II) of IPC.

Sd/-
(Ram Prasanna Sharma)
Judge