

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 1120 of 2018

- Bhulauram Dahariya, S/o Puriram Dahariya, Aged about 56 years, R/o Village Tilda, Lachhanpur, P.S.- Kasdol, District-Baloda Bazar-Bhatapara (C.G.) ---- **Petitioner**

Versus

- State of Chhattisgarh, through- S.H.O., P.S. Kasdol, District-Baloda Bazar -Bhatapara (C.G.) ---- **Respondent**

For Petitioner : Shri Hemant Gupta, Advocate.

For State/Respondent : Shri Ishwar Jaiswal, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

20/02/2020

1. Heard on application for grant of leave to appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against the judgment dated 13th November, 2017 passed by Special Judge {Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989}, (for short "the Act, 1989") Baloda Bazar, District- Baloda Bazar (C.G.) in Special Sessions Case No. 36/2016 wherein the said Court acquitted the accused (respondent in the Court below) namely Golu for charge under Sections 341 and 506 Part-II of the Indian Penal Code (for short "the IPC"), 1860 and under Section 3(i)(s) of the Act, 1989 while the said Court convicted him for charge under Sections 323 and 294 of the IPC, 1860.

3. In the present case, the accused is not made a party to the petition.
4. In the present case, the complainant is Bhulau Ram Dahariya. As per version of Bhalau Ram Dahariya, on the date of incident, he asked the accused as to why he has demolished the cultural Government building, thereafter, the accused assaulted him and incident took place. From evidence of the petitioner/complainant himself, it is clear that the incident took place because he charged the accused that he is responsible for demolition of cultural building, therefore, it is not a case which is based on caste or anything which is done on the basis of caste. The trial Court has elaborately discussed the entire evidence and recorded finding that charge under Section 3(i)(s) of the Act, 1989 is not made out.
5. After going through the record and the evidence of the complainant Bhulau Ram Dahariya (PW-1), it is clear that the accused has not intervened in any manner for his movement, therefore, it is not a case under Section 341 of IPC. Again from the evidence of the complainant, it is not established that the accused threatened him to kill or to cause any injury, therefore, in absence of evidence charge under Section 506 Part-II of IPC is also not established.
6. The trial Court after evaluating the entire evidence recorded finding of acquittal. After going through the record, this Court is of the opinion that it is not a case where interference of this Court is required in the judgment of the trial Court. It is also not a case

where the accused should be called for full consideration of this petition.

7. As the respondent is not made party in the case, there is nothing to call him therefore, application for leave appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge

Vasant