

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1653 of 2019

Laxmi Prasad S/o Rikhi Prasad Aged About 74 Years R/o Village- Borenda, Police Station- Ranitarai, Tahsil- Patan, District- Durg, Chhattisgarh. **---- Petitioner**

Versus

1. Smt. Leena Sahu W/o Bhushan Sahu Aged About 27 Years R/o Village- Borenda, Police Station- Ranitarai, Tahsil- Patan, District- Durg, Chhattisgarh.
2. Bhushan Sahu S/o Jagatram Sahu Aged About 30 Years R/o Village- Borenda, Police Station- Ranitarai, Tahsil- Patan, District- Durg, Chhattisgarh.
3. Parmanand Sahu Jagatram Sahu Aged About 32 Years R/o Village- Borenda, Police Station- Ranitarai, Tahsil- Patan, District- Durg, Chhattisgarh. **---- Respondents**

For petitioner - Ms. Swati Gupta, Advocate on behalf of Mr. Jitendra Gupta, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

24.02.2020

1. Heard on application for grant of leave to appeal under Section 378(4) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against the judgment dated 19th of March, 2019 passed by learned Judicial Magistrate First Class, Patan, District- Durg (C.G.) in C.I.S. No. 840/2013 wherein the said Court has acquitted the respondents for commission of offence under Section 294/34 of Indian Penal Code, 1860.
3. In the present case, name of the complainant is Laxmi Prasad(PW-1). This witness has not deposed regarding any abusing words uttered by any of the respondents. Witness Naresh Kumar (PW-2) has also not deposed any specific words uttered by any of the respondents. Though he deposed

that one Leena Sahu used some filthy language against the complainant which is supported by Kamlesh(PW-3) but the fact remains that whether such filthy words can be equated with obscene words.

4. For establishing charge 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 charges as obscenity is depraved and corrupt those whose minds are open to such immoral influences. 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 respondent is 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.
5. In the present case, the filthy words has alleged by witness of the complainant cannot be termed as obscene words because same is used unintentionally without having their literal meaning therefore, same is not sufficient to established the charge.
6. After assessing the evidence, the trial Court recorded finding of acquittal. View taken by the said Court is one of the

plausible view It is settled law that if two views are possible, the view which is favourable to the respondent/accused, should be accepted. There is nothing on record to convert order of acquittal into conviction.

7. After going through the records, it is not a case where any interference of this Court is required. The trial court has elaborately discussed the entire evidence and came to conclusion that the charges leveled against the respondents is not established. After reassessing the same, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition.
8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the appeal stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge