

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2153 of 2018

State of Chhattisgarh Through Police Station Nandghat, District-
Bemetara Chhattisgarh. **---- Petitioner**

Versus

Rajkumar Sahu, S/o- Durug Sahu, Aged about- 47 years
Occupation- Rajmishtri, R/o Village Putpura, Police Outpost Maaro,
Police Station Nandghat, District- Bemetara Chhattisgarh.

---- Respondent

For State/petitioner : Mrs. Shubha Shirvastava, P.L.

For Respondent : Mr. Rajkumar Pali, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

13.02.2020

1. Heard on I.A. No. 01/2018, which is an application filed under Section 5 of the Limitation Act for condonation of delay in filing the instant petition.
2. On due consideration, the application is allowed and the delay of 59 days in filing the instant petition is hereby 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 appeal is preferred against the judgment dated 28.04.2018 passed by learned Special Judge (Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 Bemetara (C.G.), in Special (Atrocity) Case No. 01/2018 wherein the said Court has acquitted the respondent for commission of offence under Sections 294 and 354 of I.P.C. 1860 & under Section 3(1)(b)(i) and 3(1)(d) & 3(1)(s) of the

Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short "The Act, 1989").

5. In the present case, the complainant is (PW-1) who deposed before the trial Court regarding use of criminal force by the respondent against her. Date of incident is 20th of October, 2017 while the report was lodged on 21st of November, 2017 and there is no explanation regarding delay in lodging F.I.R. Though, witnesses deposed that filthy abuses were uttered by the respondent on the date of incident but the fact remains that for commission of offence under Section 294 of I.P.C. the word must be obscene words.
6. The respondent is 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 charges as obscenity is to be 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 respondent is not clear, therefore, the words have

no literal significance and it cannot fall in the purview of obscene words.

8. In the present case, no one deposed as to which were obscene words therefore, in absence of use of any obscene words uttered in public place, the words, filthy abuses cannot be termed as obscene words. Therefore, charge under Section 294 is not established.
9. The incident took place because the respondent try to break the tiles, fixed in the roof in the house of the complainant. Nothing was done on the basis of caste therefore, the trial Court opined that charge regarding offence on the basis of caste is not established. The trial Court also opined that delay in lodging of F.I.R. was not explained. Therefore, it is not safe to act on the statement of the complainant and other witnesses.
10. Looking to the totality of evidence, finding recorded by the trial Court is one of the plausible view. If two views are possible, the view which is in favour of the respondent/accused should be preferred.
11. In view of the legal position, it is not a case where interference of this Court is required with the judgment of the trial Court. It is also not a case where respondent should be called for hearing again for full consideration of this petition.

12. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

N.Mohle