

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2204 of 2019

State of Chhattisgarh Through - Station House Officer, Police
Station Ambikapur District Surguja Chhattisgarh.

---- Petitioner

Versus

Sudama Agrawal, S/o- Late Kapurchand Agrawal, Aged about-
42 years Resident of Opp. Manipur School Ambikapur, P.S.
Ambikapur, District- Surguja Chhattisgarh. **---- Respondent**

For Petitioner/State : Mr. Aman Kesharwani, P.L.

For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

02/01/2020

1. Heard on I.A. No. 01/2019, which is an application for condonation of delay in filing the instant petition.
2. On due consideration, the application is allowed and the delay of 457 days in filing the 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 petition is preferred against judgment dated 13rd March, 2018, passed by learned Judicial Magistrate First Class Ambikapur, District- Surguja (C.G.), in Criminal case No. 490/2013, where in the said court acquitted the respondent for the charges punishable under Sections 294, 323 & 506 (Part-II) of Indian Penal Code, 1860.

5. In the present case, name of the complainant is Dilip Kumar Singh(PW-1). This witness has not deposed before the trial Court as to on which part of the body, the respondent caused injury to him. His statement is not clear regarding injury in the specific part though Dr. J.K. Relvani(PW-2) found simple injury in his left hand and forehead but complainant has not deposed before the trial Court that injury was caused by the respondent to forehead or on left hand. Therefore, it is not established as to which part of the body is injured by the respondent. In absence of clear evidence, it is not established that respondent caused voluntary simple injury to the body of the respondent, therefore, charge under Section 323 of IPC is not established.
6. 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 to be deprave 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.

7. For establishing offence under Section 506 of IPC, it has to be established that the respondent was determined to execute his threat. From statement of witnesses, the only thing which is established is that the certain words were uttered at the time to incident. Mere uttering of words is not sufficient to bring home the guilt, unless the same is uttered with instant execution of threat, but that is not the case here. In absence of determination to execute the threat, the words uttered by respondent are mere fury which have sound, but no substance, therefore, the charge under Section 506 of IPC is also not established.
8. The trial Court after assessing the entire evidence recorded that charge under Section 506 part – II is also not established. 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.
9. 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 respondent is not established. After reassessing the same, this Court has no

reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition.

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

Sd/-
(Ram Prasanna Sharma)
Judge