

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 682 of 2019

State of Chhattisgarh Through Its Station House Officer, Police
Station Gurur, District Balod, Chhattisgarh. **---- Appellant**

Versus

Sitaram Sahu S/o Makhanlal Sahu Aged About 52 Years R/o Village
Dhaneli, Police Station Gurur, District Balod, Chhattisgarh.

---- Respondent

For State/appellant : Mr. D.K. Tiwari, Dy. G.A.

For respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment on Board

27/01/2020

1. Heard on application for grant of leave to appeal under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This appeal is preferred against the judgment dated 21.12.2018, passed by learned Judicial Magistrate First Class, Balod (C.G.), in Criminal Case No. 593 of 2015, wherein the said Court acquitted the respondent for commission of offence punishable under Sections 294, 323 and 506 Part-II of the IPC.
3. In the present case, complainant is Kunj Bai (PW-1). She deposed regarding some obscene language uttered by the respondent but words stated by this witness is different from the words uttered before the Lalita Bai (PW-2) and Johura (PW-3). All these three witnesses have deposed different words of uttering by the respondent which is contradictory in nature.

4. 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 charged as obscenity is to be deprave and corrupt those whose minds are open to such immoral influences.
5. 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. Looking to the contrary evidence, it is not established that the offence under Section 294 of IPC is made out.
6. For commission of offence under Section 506 Part-II 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 Part-II of IPC is also not established.

7. Though complainant (PW-1) deposed that respondent assaulted her but on her medical examination by Dr. G.R. Rawte (PW-5) did not find any injury on her body. Looking to the entire evidence, the trial Court has recorded finding that charge under Section 323 of IPC is not established.
8. View taken by the trial Court is one of the plausible view, if two views are possible the view which is in favour of respondent/accused should be preferred. 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.
9. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge