

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2536 of 2019

State of Chhattisgarh, Through- Police Station Bemetara, District- Bemetara (C.G.)

---- Petitioner

Versus

1. Jitendra Kumar Sahu, S/o Shri Hirau Ram Sahu, aged about 46 years.
 2. Smt. Champabai Sahu, W/o Jitendra Sahu, aged about 38 years.
 3. Tulsi Ram Yadu, S/o Bhonduram Yadu, aged about 59 years.
 4. Sudarshan Yadu, S/o Ramadhar Yadu, aged about 39 years.
- All are R/o Village- Ranka, Police Station- Bemetara, District- Bemetara (C.G.)

---- Respondents

For State/ Petitioner : Mr. Dinesh Tiwari, Dy. Govt. Adv.
For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

11/02/2020

1. Heard on application for grant of leave to appeal filed under Section 378 (3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against judgment dated 07.08.2019 passed by Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 (for short "the Act, 1989"), Bemetara, District- Bemetara (C.G.) in Special (Atrocities) Case No. 02/2019, wherein the said court acquitted all the respondents for charge under Sections 294, 186, 506 (Part-II) of IPC, 1860 & Section 3(1)(m), 3(1)(r) & 3(1)(s) of the Act, 1989.

3. In the present case, complainant is Kishorechand Banjare who was Panchayat Secretary in Village Panchayat Ranka. On the date of incident i.e. on 18.10.2017 at about 11:00 a.m., there was process of payment of workers of MNREGA and at the same time, it is alleged that the respondents came to the said office and directed the said complainant to act on their direction that is why some altercation took place.
4. From the evidence, it is clear that the incident took place at Panchayat and that too for payment of MNREGA and for pension to senior citizens, the incident did not take place on the basis of caste. It is happened due to some obstruction of work of Panchayat, therefore, it is not a case where any atrocities is committed against the complainant on the basis of caste, therefore, the charge under Section 3(1)(m), 3(1)(r) & 3(1)(s) of the Act, 1989 are not established against the respondents.
5. From statement of Kishorechand Banjare (PW-1) and other witnesses, it is not clear as to which kind of obscene words are uttered by any of the respondent for commission of offence under Section 294 of IPC. As the words uttered by any of the respondent is not clear from statement of prosecution witnesses, the charge under Section 294 of IPC is also not established against the respondents.
6. From statement of Kishorechand Banjare (PW-1), it is established that some threat was given, but from his statement, it is not clear that any of the respondent was in

position to execute threat or determined to execute threat on the spot because no respondent was having any instrument with him, therefore, any words uttered in that moment is mere fury which has sound, but no substance. In absence of determination of execution of threat, charge under Section 506 (Part-II) of IPC is also not established.

7. For commission of offence under Section 186 of IPC, there should be a complaint in writing by the concerned public servant or some other personnel to whom he is subordinate as per mandatory provision of Section 195 of the Cr.P.C., but in the present case, no written complaint was filed by the said public servant namely Kishorechand Banjare and the procedure to be adopted under Sections 200 to 203 of the Cr.P.C. is also not complied with, therefore, cognizance of offence under Section 186 of IPC is contrary to law and the respondents cannot be convicted for the said offence.
8. The trial court elaborately discussed the entire evidence and recorded finding of acquittal. After reassessing the entire evidence, this Court has no reason to interfere with the said order. It is not a case where respondents should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge