

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**ACQA No. 718 of 2019**

- Smt. Sunita Dhurve W/o Dogendra Dhurve Aged About 41 Years R/o Village Chorbhatti Out Post Dashrangpur, Police Station Pipariya, Tahsil Kawardha, , District : Kawardha (Kabirdham), Chhattisgarh.

**---- Appellant**

**Versus**

1. Smt. Benibai W/o Baburam Rajput Aged About 55 Years R/o Village Chorbhatti, Out Post Dashrangpur, Police Station Pipariya, Tahsil Kawardha, District Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh
2. Smt. Savita W/o Basant Singh Rajput Aged About 60 Years R/o Village Chorbhatti, Out Post Dashrangpur, Police Station Pipariya, Tahsil Kawardha, District Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh
3. Tareshwari W/o Rajaram Aged About 38 Years R/o Village Chorbhatti, Out Post Dashrangpur, Police Station Pipariya, Tahsil Kawardha, District Kabirdham, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh
4. State of Chhattisgarh Through District Magistrate Kawardha, District Kawardha, Chhattisgarh., District : Kawardha (Kabirdham), Chhattisgarh

**---- Respondents.**

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For Appellant : Mrs. Usha Chandrakar, Advocate.  
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**Hon'ble Shri Justice Ram Prasanna Sharma**

**Oral Judgment**

**29-01-2020**

1. This acquittal appeal is preferred against the judgment dated 4-9-2010 passed by the Special Judge (Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989) ( for short, "the Act, 1989") Kabirdham, in Atrocities Special Case No.39 of

2018 wherein the said court acquitted the respondents for charge under Section 3(1)(s) of the Act, 1989 and Sections 323 and 506 Part II of the IPC, 1860.

2. In the present case, victims are Sunita Bai and Vandana. It is alleged that respondents threatened said Sunita Bai and used abusive language against both victims in the name of their caste in public view. From the report (Ex.P/1), quarrel took place because the material used in the boundary of appellant was removed by the complainant side. From the entire evidence, it is not clear that any offence is committed on the basis of caste. The case is based on boundary dispute for which altercation took place between both sides.

3. Learned counsel for the appellant would submit that the trial court has not evaluated the evidence properly therefore, finding of the trial court is liable to be set aside.

4. I have heard counsel for the appellant and perused the record of the trial court where judgment has been passed.

5. The trial court after evaluating the entire evidence recorded finding that charge under Section 3(1)(s) of the Act, 1989 is not established. After reassessing the evidence, this court has no reason to reverse the said finding.

6. From the evidence of the prosecution, it is not established that any obscene words were used by the respondents. The essence of the

crime under Section 294 of the IPC consists in creating a public nuisance which because of its gravity being of public nature may endanger public peace. In order to bring home the guilt of the accused for an offence under Section 294 of the IPC, 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 influence.

7. Filthy abuses are not uncommon. It had not more significance than mere platitudinous utterances signifying the enraged state of persons' mind. The words which have no literal significance cannot fall in the purview of obscene words. From the evidence it is not established beyond doubt that any obscene words were uttered by the respondents, thus offence under Section 294 of IPC is not established against the respondents.

8. In the present case, any word uttered does not come within purview of obscene word that is why the trial court recorded finding that charge under Section 294 of IPC is not established. PW/8 Dr. Gouri Shankar Parihar who examined victim Vandana did not find any visible injury. Though he found one scratch mark on the cheek of Sunita Bai, but after assessing the entire evidence the trial court recorded finding that the evidence of the complainant Sunita Bai is

doubtful. The trial court further recorded finding that the report was lodged against the present complainant by the appellant side, therefore, it may be a case of counter blast against the said report.

9. After going through the record, the view taken by the trial court is one of the plausible views. It is settled that if two views are possible, the view which is favourable to the respondents/accused should be accepted. Finding of the acquittal is based on relevant facts and same is not irrelevant and extraneous matter. On overall assessment, it is not a case where interference of this court is required with the judgment of the trial court and it is also not a case where respondents should be called for full consideration of this petition.

10. Accordingly, the instant appeal stands dismissed at motion stage itself.

Sd/-  
(Ram Prasanna Sharma)  
Judge

Raju