

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 408 of 2001**

Bharat Kumar Tank, aged about 39 years S/o Udhavji, R/o Kolchur, Bhirlinga,
P.S. Jagdalpur, Distt. Bastar (C.G.)

----Appellant

Versus

State of Chhattisgarh Through District Magistrate Jagdalpur, District Bastar
(C.G.)

---- Respondent

For Appellant	:	Mr. Prafull N. Bharat, Advocate
For Respondent/State	:	Mr. Roshan Dubey, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

11/02/2021

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 24/04/2001 passed in Sessions Trial No. 36/2001 by Special Judge, Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act and Additional Sessions Judge, Bastar, Place Jagdalpur (C.G.) whereby the Appellant has been convicted under Section 3 (i)(x) of SC & ST (Prevention of Atrocities) Act 1989 and Section 506 Part-I of the IPC and sentenced to undergo RI for 1 year and to pay fine of Rs. 1000/- and RI for 1 year and to pay fine of Rs. 500/- respectively, with default stipulations. Both the sentence to run concurrently.
2. Facts of the case are that on 15/07/2000 when complainant Motilal (PW-1) along with Krishna Kumar (PW-2) and Kanwal Singh (PW-3) cultivating his agricultural land at that time the Appellant and co-accused Ashok(acquitted by the Trial Court) came there, allegedly, the Appellant

with intention to insult the complainant abused him by the name of his caste and also threatened him to not continue plough his field. Due to threats given by the Appellant, the complainant left his field and on 18.07.2000, he reported the matter in Bastar Chowki (Ex.P-1). On the basis of said report, FIR was registered by the Police (Ex. P-2). Statement of the complainant as well as other witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. As many as 6 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted co-accused Ashok and convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that the Appellant has been wrongly convicted by the trial Court without there being any reliable evidence available on record. He further submits that if the case of prosecution taken as it is, no offence under Section 3 (i)(x) of SC & ST (Prevention of Atrocities) Act can be made out against the Appellant. Ingredients of the alleged Act is missing as there was no intention to insult the complainant. Mere assertion of "Adivasi, Gond, Muriya" does not amount to insult of Tribal person. The Counsel further submits that in the Court examination of complainant Motilal (PW-1), he himself stated that he belongs to Kanwar caste and at the time of incident, the Appellant had not used the word 'Kanwar', therefore, Section 3 (i)(x) of

SC & ST (Prevention of Atrocities) Act is not proved. There is also nothing on record on the basis of which the Appellant can be convicted under Section 506 Part-1 of the IPC. There was no criminal intimidation on the part of the Appellant hence he could not be convicted under Section 506 Part-1 of the IPC.

5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely. I have also perused the statements of the complainant and other witnesses minutely.
7. There is no dispute on the point that complainant Motilal (PW-1) was the member of Schedule Tribe. In his Court statement, the complainant (PW-1) has deposed that at the time of incident, the complainant had gone to his field on his Tractor, there the Appellant yelled at him that whether said field belonged to his father and abused him saying *Gond Muria and Saala*. Then Appellant went away from there on his tractor. During Course of Examination this witness further deposed that he belongs to *Kanwar* caste and does not belong to *Gond* or *Muria* caste. He further deposed that the appellant abused him saying *gond* and *muria* but did not say *Kanwar*. Krishna Kumar (PW-2) brother of the complainant also deposed that at the time of incident Appellant abused the Complainant saying *Gond* and *Muria*.
8. On minute examination of above evidence, it makes clear that at the time of incident, the Appellant abused the complainant by saying him *Gond* and *Muria* though the complainant belongs to *Kanwar* caste. In the

statement of the complainant also he stated that the appellant abused him saying *Gond* and *Muria* but did not say *Kanwar*. Looking to the above, in my considered view, finding of the Trial Court in this regard is not accordance with evidence available on record. Thus, the impugned order dated 24/04/2001 passed in Sessions Trial No. 36/2001 by the Special Judge, Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act and Additional Sessions Judge, Bastar, Place Jagdalpur (C.G.) is quashed.

9. Consequently, the Appeal is allowed. The Appellant is acquitted from the charges framed against him.
10. It is reported that the Appellant is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of six months in light of Section 437-A of the Cr.P.C
11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge