

HIGH COURT OF CHHATTISGARH, BILASPUR
Acquittal Appeal No.459 of 2010

Daulat Ram, aged about 46 years, Son of Shri Jhumuk Ram Sahu, R/o Village Kusmi, Tahsil Berla, Police Station Berla, District Durg (CG)

---- Appellant

Versus

1. Leelaram, aged about 36 years, S/o Shri Kashiram;

2. Kanti Bai, aged about 33 years, W/o Shri Leelaram;

3. Lata Bai, aged about 37 years, D/o Shri Kashiram;

All R/o Villlage Kusmi, Tahsil Berla, Police Station Berla, District Durg

-----Respondents

None for the parties.

Single Bench:Hon'ble Shri Deepak Kumar Tiwari J
Order On Board

13.12.2021

1. This Appeal has been filed under Section 378(4) Cr.P.C against the judgment dated 18.04.2006 passed in Criminal Case No.297/2005 by the Judicial Magistrate, First Class, Bemetara.

2. Brief facts of the case are that on 13.07.2002 at about 11-12 o'clock in the mid day when complainant Daulat Ram (PW-1) was irrigating his field, the accused/Respondents had abused him and also started assaulting him with *kudali* and *rapa* (hoe and spade). The complainant sustained injuries on his person particularly on his head along with other parts of the body. The incident was reported by him at P.S Berla and he was recommended for medical examination but the police has not reported his case, therefore, he filed a criminal complaint before the Court of Judicial

Magistrate First Class, Bemetera, which was registered under Sections 294 and 323/34 IPC against the accused/Respondents. The complainant has examined three witnesses i.e. the complainant himself as PW-1, Hemuram as PW-2 and Ballu as PW-3.

3. The accused/Respondents have denied the charges levelled against them and have stated in their written statement that they have been falsely implicated in the case. They have further stated that the complainant has assaulted them and no witness was examined in their defence.

4. After completion of trial, the accused persons were acquitted vide the impugned judgment.

5. The Appellant has submitted in the Appeal that the findings recorded by the trial Court are not based on proper appreciation of evidence, therefore, prayed to allow the Appeal convicting the accused/Respondents.

6. Daulatram (PW-1) denies in para-10 of his statement that he has started quarrelling and also denied that he had beaten the accused/Respondents. He further denied that a false report has been made against the accused/Respondents looking to the seriousness of the injuries caused to them. It is an admitted fact that in the same incident, the police has reported the offence against the complainant for assaulting the accused/Respondents and the police has filed the charge sheet and the criminal trial was conducted. The complainant has not produced any report regarding the injury caused to him and also not explained as to how the injury was caused to the accused/Respondents. So the genesis of the incident has not been unfolded by the complainant side.

7. Hemuram (PW-2), who is the nephew of the complainant has admitted in para-5 of his cross-examination that he was in a far distance, therefore, he could not see as to which accused/Respondent used what

type of weapon for causing the injuries. He also admitted in paragraph-3 that for the same incident, on the report of accused Leelaram, a criminal case was going on against complainant Daulatram (PW-1) and his sons Rupendra & Devendra. Ballu (PW-3) has deposed that when he reached the spot, *marpit* was already done and he saw that they were abusing each.

8. From the aforesaid evidence of complainant witnesses, it has been proved that there was quarrel and also abuses and accused/Respondents have also sustained injuries for which, they have lodged FIR against the complainant party.

9. From the complainant evidence, it is not known as to how the incident has started and who was the aggressor. Hemuram (PW-2) and Ballu (PW-3) have not seen the incident from the beginning and Hemuram (PW-2) also does not know as to which accused/Respondent used what type of weapon. There was no eye witness and the complainant Daulatram (PW-1) himself was prosecuted by the accused/Respondent and the complainant has also not produced any medical evidence with regard to any injury caused to him.

10. Daulatram (PW-1) has stated in his statement that the accused/Respondents abused him in the name of his mother and sister. It is established that in a quarrel, vulgar and abusive words used in a hot tempered manner do not attract an offence under Section 294 IPC as the abusive words, humiliating words or deformative words will not amount to obscenity as envisaged under Section 294 IPC.

11. It is well established that the appellate Court considering the Appeal against the judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so.

12. In this case, i do not think that the acquittal recorded by the trial Court is perverse as the complainant has failed to prove the charges levelled against him beyond any reasonable doubt. Therefore, the same is affirmed.

13. Resultantly, the Appeal fails and is hereby dismissed accordingly.

Sd/-

(Deepak Kumar Tiwari)
JUDGE

Priya