

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P.No.1096 of 2013**

The State of Chhattisgarh Through the District
Magistrate, Korba (CG)

---Petitioner

Versus

Subhash Singh, S/o.-Ramchandra Singh Kurmi, Aged about
42 years, R/o.-Subhash Block Quarter No.D/108, Chowki
Manikpur, Korba At present Quarter No.1B/26 Hospital
Colony, S.E.C.L. Korba District – Korba

---Respondent

For Petitioner/State : Mr.Ravi Bhagat, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

11/2/2021

1. Heard on petition under Section 482 of the CrPC for leave to appeal under Section 378(3) of the CrPC.
2. By the impugned judgment, learned Special Judge (Atrocities), Korba has acquitted the respondent herein for offences under Sections 294 & 506 Part-II of the IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter called 'the Act of 1989').
3. Mr.Ravi Bhagat, learned Deputy Government Advocate for the petitioner/State would submit that learned Special Judge has ignored the material available on record and thereby acquitted the respondent on perverse ground and therefore, leave to appeal be granted.
4. I have heard learned counsel for the petitioner and

perused the record.

5. The case of the prosecution, in brief, is that the respondent/accused while working as Technician in SECL Hospital, Mudapar on 14.9.2010 at about 10 p.m. abused complainant-Mohan Singh in public place and also threatened him knowing fully well that he is a member of Scheduled Tribe and thereby committed the offences.
6. The Special Court (Atrocities), Korba after appreciating oral and documentary evidence available on record, has clearly recorded a finding that complainant-Mohan Singh Pradhan (PW-1), Lekheram (PW-2), Savan Banjare (PW-4) and Rajesh Pilley (PW-5) are members of labour union and they were working together and further recorded a finding that relationship of the complainant and accused were not cordial. It has further been recorded that on the date of incident, the complainant's wife was admitted in SECL Hospital in which there is electricity failure for few minutes and upon which, the respondent/accused has turned on the generator. It has also been recorded by learned Special Judge that there is no uniformity in the statements of the complainant and the prosecution witnesses. It has also been held that no FIR was lodged on the date of incident i.e. 14.9.2010 and on the next day, FIR was lodged, as such, there is delay in lodging the FIR. It has also held that it has not been proved that the

complainant is a member of Scheduled Tribe, as such, the prosecution has failed to prove the offences under Sections 294 506 Part-II of the IPC and Section 3(1)(x) of the Act of 1989 beyond reasonable doubt. The findings recorded by the Special Judge noticed hereinabove are findings based on evidence available on record. It is neither perverse nor contrary to record, as such, the findings recorded by the Special Judge acquitting the respondent herein for offences under Sections 294 506 Part-II of the IPC and Section 3(1)(x) of the Act of 1989 cannot be shown to be perverse by learned State Counsel though he has taken me through the record for a fairly long time.

7. In that view of the matter, I do not consider it a fit case to grant leave to appeal under Section 378(3) of the CrPC. Accordingly, the petition under Section 482 of the CrPC for leave to appeal is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

B/-