

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 949 of 2021

- Rajendra Kumar Chandra S/o Khageshwar Prasad Chandra, Aged About 43 Years Caste Chandra, R/o Village Nandeli, P.S. And Tahsil Jaijaipur, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Jaijaipur, District Janjgir Champa Chhattisgarh. Note - In The Rejection Order The State Of Chhattisgarh Has Been Impleaded Through The District Magistrate, Janjgir District Janjgir Champa Chhattisgarh, Civil And Revenue District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Respondent

With

CRA No. 1152 of 2021

- Ramesh Chand Chandra, S/o Taroki Lal Chandra, Aged About 57 Years R/o Village - Kachanda, Tahsil And Police Station - Jaijaipur, District - Janjgir - Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station - Jaijaipur, District - Janjgir - Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Respondent

For Appellants	: Mr. Vivek Kumar Shrivastava and Mr. Malay Shrivastava, Adv.
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For Respondent	: Mr. Ghanshyam Patel, Govt. Advocate
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For Objector	: Mr. Anchal Kumar Matre, Advocate
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Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

08.11.2021

Since all the aforementioned two appeals arise out of the same crime number i.e. 121/2021 registered at Police Station Jaijaipur, District Janjgir Champa for the offences punishable under Sections 147,148,149,294,447,427,452,506 IPC and section 3(i) (द) (घ) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, they are decided by this common order.

2. Case of the prosecution in brief is that on 02.08.2021 the appellants and other accused persons entered the house of the complainant, started abusing filthily in the name of caste on the pretext that the complainant party had constructed the houses in their land and that if they did not come out of the houses, they would get the same dismantled with the help of tractor. They are also alleged to have pulled out the female members of the houses and thus put them to humiliation.

3. Learned counsel for the accused/appellants placing reliance on the decision of the Apex Court in the matter of **Hitesh Verma v. State of Uttarakhand and Another AIR 2020 SC 5584** and **Swaran Singh and Others v. State through Standing Counsel and Another 2008 (8) SCC 435**, submits that un-disputedly, the incident had occurred within the four walls of the house and therefore, the ingredients of the Special Act referred to above are not attracted. They further submit that there is nothing to show that the place where the incident took place was a public place or it was

within the public view. Referring to certain orders passed by the Revenue Authorities, learned counsel for the appellants submit that it is a case having civil flavour but unfortunately it has been given the colour of a criminal case.

4. On the other hand, learned State counsel as also the counsel appearing for the objector referring to the allegations made against the accused/appellants contained in the FIR, oppose the application for bail and holds the rejection order passed by the Court below as fully justified.

5. Heard counsel for the parties and perused the documents.

6. From the contents of the FIR the incident alleged does not appear to have taken place within the public view as the allegations themselves go to show that it had happened inside the house. Rather, a prima-facie flashback of the documents suggests some substance in the argument of counsel for the accused/appellants that it is the civil proceedings which prompted the complainant party to take recourse to lodgment of the FIR. The entire investigation, as informed by the State counsel, has been completed and the charge-sheet has been filed.

7. Having given a thoughtful consideration to the facts of the present case, it appears that the incident had taken place inside the house of complainant. It has to be seen at the time of framing of charge as to whether the offence under the Act, would be made out or not. However, in view of the decisions referred to above, prima-facie the

said offence cannot be made out. Even otherwise, except the offence under the Special Act, all other offences levelled against the accused persons are bailable ones.

8. Accordingly, all the aforesaid appeals are **allowed** and the impugned orders are set-aside. The appellants are directed to be released on bail on their furnishing a personal bond in the sum of Rs.50,000/- with one surety for the like amount each to the satisfaction of concerned Court. They shall make themselves present on all the dates as are given to them by the said Court, until the case itself is disposed of.

Certified copy as per rules.

Sd/-
(Vimla Singh Kapoor)
JUDGE