

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No.1355 of 2021**

State Of Chhattisgarh Through - Police Station Mahasamund, District Mahasamund (C.G.)

---- Petitioner**Versus**

Shubham Vaishnav S/o Mulchand Vaishnav Aged About 19 Years R/o Village Bhurka Mahasamund, Police Station Mahasamund, District Mahasamund (C.G.)

-----Respondents

For Petitioner/State: Shri Devesh Chandra Verma, Government Advocate.

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

07.12.2021

1. This is an Appeal filed under Section 378(1) of the Code of Criminal Procedure, 1973 against the judgment of acquittal dated 27.08.2021 passed by the Judicial Magistrate, First Class, Mahasamund, District Mahasamund in Criminal Case No.167/2016 whereby, the Respondent/accused has been acquitted from the charges punishable under Sections 294, 323 and 506-B IPC.

2. Brief facts of the case are that on 23.11.2015 around 2.00 pm at Kumharapara, District Mahasamund, the Respondent/accused went in front of the house of complainant Gulabi Vaishnav (PW-1) and started abusing her as also Heera Das Vaishnav (PW-2) by using filthy language and also bitten them with hands and fists and further threatened them for life with

criminal intimidation.

3. As the Respondent/accused has abjured the guilt, therefore, in order to prove the case, the prosecution has examined as many as 9 witnesses and the trial Court, after appreciating the evidence on record, has acquitted him from the offence punishable under the said Sections vide the impugned judgment.

4. It is submitted that independent witness Thagiya Bai (PW-5) has clearly stated that the Respondent/accused used to quarrel with the complainant as also with Heeradas Vaishnav (PW-2), but in para-4 of her cross-examination, she has categorically admitted that she reached the spot after the said incident has already taken place. Gyan Singh Chandel (PW-4), ASI has also admitted that complainant Gulabi Vaishnav (PW-1) and Heera Das Vaishnav (PW-2) have not given any information as to on which part of the body, the injury was caused and no medical examination was done. Gulabi Vaishnav (PW-1) and Heera Das Vaishnav (PW-2) have admitted that there was a family dispute with the Respondent/accused.

5. In the instant case, no independent witnesses have supported the prosecution and even in the statements of Gulabi Vaishnav (PW-1) and Heera Das Vaishnav (PW-2), there were material contradictions and omissions, therefore, after having considered the evidence available on record, the trial Court has reached to a proper conclusion that the prosecution has failed to prove the charges levelled against the Respondent/accused beyond any reasonable doubt.

6. In view of above, this Court does not find any substantial ground to grant leave to Appeal as the findings recorded by the trial Court are not perverse.

7. Accordingly, the instant Cr.M.P being devoid of merits, is liable to be

and is hereby dismissed at the motion stage. There shall be no order as to costs.

Sd/-

(Deepak Kumar Tiwari)
JUDGE

Priya