

(1) (03)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

CRIMINAL REVISION NO. 209 OF 2006

Single Bench

**APPLICANTS** :

1. Suresh Kumar, S/o Umangchand  
Baghmar, Aged about 43 years,  
Village- Main Road Keshkal.

Ram Pravesh Pandey, S/o Late  
Shri Ramadhar Pandey, Aged  
about 62 years, Village-  
Mungbadi Keshkal.

3. Surendra Kumar Sharma, S/o  
Purushottamlal Sharma, Aged  
about 42 years, Village-  
Govindpur Kanker (C.G.)

1381/06  
25/3/06  
Keshkal for only  
R to D R to D  
Filed on  
by Shri  
RECEIVED-COPY  
25/3/06  
CLERK to A. G. BILASPUR

VERSUS

**RESPONDENT** :

State of Chhattisgarh,  
Through: Police Station Keshkal  
Jagdalpur North Bastar (C.G.).

**REVISION UNDER SECTION 397 READ WITH 401 Cr.P.C.**



उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

## आदेश पत्रक

मामला क्रमांक ... Cr. Rev. 208 / सन् 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><b><u>31.03.2006</u></b></p> <p>Applicants by Shri Bhaskar Payashi, Advocate.</p> <p>Shri U.K.S.Chandel, Panel Lawyer for the State.</p> <p>I.A.No.806/2006 for taking document on record is considered and allowed. Document is taken on record.</p> <p>Shri Bhaskar Payashi, learned counsel for the applicants, submits that he does not press on M.Cr.P.No.662/2006 for stay.</p> <p>M.Cr.P.No.662/2006 for stay is dismissed as not pressed.</p> <p>He further submits that this matter be heard finally and disposed of at the admission stage. Prayer is not opposed.</p> <p>The revision is heard finally.</p> <p>This revision is directed against an order dated 13.03.2006 passed by Special Judge, Scheduled Caste &amp; Scheduled Tribe (Prevention of Atrocities) Act, 1989, Jagdalpur in Sessions Case No. 370/2005 whereby charges under Section 506-B I.P.C. and under Section 3 (1) (x) of the Scheduled Caste &amp; Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act') were framed against the applicants herein.</p> <p>Shri Bhaskar Payashi, learned counsel for the applicants at the very outset submitted that he does not assail the impugned order so far as it relates to framing of charge under Section 506-B of the I.P.C. against the applicants and would only assail the</p>	

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>framing of charge under Section 3 (1) (x) of the Act against the applicants herein.</p> <p>Brief facts are that the complainant-Sonibai, wife of Jugru Ram, resident of village Pusagaon, District Kanker and a member of the Scheduled Tribe was working on daily wages in the office of Suresh Baghmar, the applicant No.1. Despite working for about two years in his office, the applicant No.1 or his Manager Ram Pravesh Pandey, the applicant No.2 did not pay the entire wages due to her. She repeatedly kept pressing for payment of wages. Sometimes before June - July 2003 Sonibai went to the house of applicant-Suresh Baghmar at Keshkal with her husband. It is alleged that the applicants No.1 to 3 were present <sup>at</sup> <del>inside</del> the house. It is further alleged in the complaint lodged by Sonibai that upon a demand raised by her for payment of back wages, all the three applicants got annoyed and hurled filthy abuses on her while taking the name of her caste. They further threatened to get her killed in a bomb explosion. Being extremely frightened, Soni Bai returned home and kept in confinement for 10 - 15 days.</p> <p>After consulting the villagers thereafter, she was advised to go to the Sarpanch of village Budhiarmaari. On 13.10.2003 the Sarpanch of village Budhiarmaari called Sonibai and asked her to accompany him to the house of the then Chief Minister and to submit her grievances before the then Chief Minister. It appears</p>	

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>that upon such advice, Sonibai accompanied the Sarpanch and gave an application to the then Chief Minister on 13.10.2003. Upon investigation of the said complaint by the Scheduled Caste/Scheduled Tribe Cell, Kanker, prosecution was launched under Section 3 (1) (x) of the Act and 506-B of the I.P.C. Vide order dated 13.3.2006, charge under 3 (1) (x) of the Act and 506-B of the I.P.C. were framed against the applicants.</p> <p>Shri Bhaskar Payashi, learned counsel for the applicants argued that in order to constitute the offence under Section 3 (1) (x) of the Act, it was absolutely essential for the prosecution to show <i>prima facie</i> at the stage of charge that the applicants, not being members of the Scheduled Caste or Scheduled Tribe, intentionally insulted or intimidated Sonibai, a member of the Scheduled Tribe, with intent to humiliate a member of the Scheduled Caste or Scheduled Tribe in any place within public view. The charge framed by the learned Special Judge specifically alleged that the applicants had, in public view, insulted or intimidated Sonibai intentionally with intent to humiliate a member of the Scheduled Caste or Scheduled Tribe.</p> <p>Shri Bhaskar Payashi, learned counsel for the applicants further submits that the complaint to the Chief Minister submitted by Sonibai after a very long delay shows that the alleged offence was committed inside the house of applicant No.1 and does</p>	

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - ५ -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>not show that the offence, if any, alleged to have been committed by the applicants under Section 3 (1) (x) of the Act was committed in public view. He further contends that so far as the statement of Nathela recorded under Section 161 Cr.P.C. is concerned, Sonibai is the sister-in-law and even if he along with his wife was present at the time of alleged abuses or threats given by the applicants to Sonibai by faking the name of her caste inside the house of the applicant No.1, it would not tantamount to intimidating or insulting within public view.</p> <p>On the other hand, Shri U.K.S.Chandel, learned Panel Lawyer has argued that at the stage of framing charge, no roving enquiry is contemplated and the material produced by the prosecution has to be taken at its face value and is not to be appreciated and weighed for coming to the conclusion whether a charge against the applicants should be framed or not. In that view of the matter, he urged that the presence of Nathela Ram and his wife at the time of the alleged threats, filthy abuses and intimidation while naming the caste of Sonibai by the applicants constitutes the offence under Section 3 (1)(x) of the Act since the requirement of law to attract Section 3(1)(x) is "public view" and not "public place".</p> <p>Having heard the rival contentions, I have perused the record. It is no doubt true that in the application presented to the Chief Minister by Sonibai, it was not mentioned that Nathela Ram</p>	

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 5 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>and his wife were also present at the house of the applicant No.1-Suresh Baghmar, yet at this stage the statement under Section 161 Cr.P.C. of Nathela Ram cannot be brushed aside as unreliable on that count. It also needs to be noticed that the application submitted by Sonibai does not show that she had entered the house of the applicant No.1-Suresh Baghmar. It only shows that the alleged abuses, intimidation and insulting and humiliating utterances were made by the applicants at the house of Suresh Baghmar. So far as the filthy abuses, threats and intimidation while naming the caste of Sonibai are concerned, they constitute <i>prima facie</i> an offence under Section 3(1)(x) of the Act. The presence of Nathela Ram, his wife and the husband of the complainant-Sonibai at the time of the alleged offence <i>prima facie</i> brings it within the ambit of "public view".</p> <p>Having thus considered the material produced by the prosecution before the learned Special Judge, I am of the considered opinion that <i>prima facie</i> a case under Section 3 (1) (x) of the Act and 506-B of the I.P.C. exists against the applicants. The impugned order dated 13.3.2006 does not therefore call for any interference.</p> <p>In the result this revision being devoid of merit is dismissed.</p>	<p>Sd/- Dilip Raosaheb Deshmukh Judge</p>

(पाठ दाख्य)

4.4.08  
18/4/08