



Single Bench

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT

BILASPUR

C. R. M.P. No. 681 / 2009

APPLICANT :
COMPLAINANT

Parmanand Deep ,
S/o Late Shri Khageshwar Deep
Aged about 29 years
R/o D.K. Hospital Colony,
Raipur, C.G.

VERSUS

NON-APPLICANT :
ACCUSED

Dr. Pramod Singh,
S/o Late Shri Krishna Pal Singh
Aged about 55 years,
Occupation Government Service,
Director, Directorate of Health
Services, Old Nursing Hostel,
behind D.K.S. Bhawan,
Raipur, (C.G.)
R/o Qtr. No. D/4, Shanti Nagar,
Shankar Nagar Road, Raipur,
C.G.

P.R. No. 6197/09
Presented by Mr. Suresh Tandon
Dated 8/12/09
78/12/09
12:45 PM

APPLICATION FOR GRANT OF SPECIAL LEAVE TO FILE

APPEAL U/S 378(4) OF THE CODE OF CRIMINAL PROCEDURE

1973.



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HIGH COURT OF CHHATTISGARH AT BILASPUR

(Hon. Mr. Justice Pritinker Diwaker)

Cr.M.P. No. 681 of 2009

APPLICANT

Parmanand Deep

VERSUS

RESPONDENT

Dr. Pramod Singh

Shri Satyendra Sahu counsel for the applicant.
Shri Kamal Kishore Patel counsel for the espondent.

**APPLICATION UNDER SECTION 378 (4) OF THE CODE OF
CRIMINAL PROCEDURE.**

ORDER
(31.03.2010)

This application has been filed against the impugned judgment dated 30.7.2009 passed by Special Judge, Raipur in Special Case No. 15/2009 acquitting the respondent/accused of the offence punishable under Sections 294, 506-II IPC and section 3 (1) (10) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. Brief facts of the case are that on 1.9.2004 a complaint case was filed by the applicant before the learned Magistrate alleging that he was working as driver in the office of Chief Medical and Health Officer for last 18 years. It is alleged that on 26.12.1995 the respondent/accused was posted at Raipur as Chief Medical and Health Officer and in September he had transferred him from Raipur to Arang but as he was not relieved from Raipur, was performing his duties in the office of Leprosy Officer. It is alleged that on 4.10.1995 a letter was issued by the respondent to the applicant for dereliction of his duty and disobedience of the government order and without considering the reply of the applicant his salary for September and October 1995 was withheld. It is alleged that he made a personal request to the respondent by assigning his problems but the respondent had asked him to give affidavit which too was given by the applicant. On 26.12.1995 the respondent called him and



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compelled him to take back his affidavit and the notice and when he refused to do so, he abused him in the name of his caste by using filthy language. It is alleged that on 26.12.1995 the report was lodged by him to the police but no action was taken thereon and therefore occasion for filing the complaint case arose. Initially, he filed the complaint before the Court of Special Judge and after the order of the High Court, he filed the complaint case before learned Magistrate.

3. The Complainant has examined himself as (CW-1) and one Prakash Jogi (CW-2) in support of his case. Statement of the respondent/accused was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the charges levelled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties the Court below has acquitted the respondent/accused of the charges levelled against him.

5. Counsel for the appellant submits that on the basis of material available on record the Court below ought to have convicted the respondent/accused for the offences under sections 294, 506-II IPC and section 3 (1) (10) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 but having ignored the evidence adduced by the complainant and thereby awarding acquittal to him it has landed itself in a grave legal error.

6. On the other hand counsel for the respondent/accused supports the impugned judgment.

7. From the statements of the witnesses it appears that the applicant was transferred by the respondent from Raipur to Arang but the said order was not carried out by him. It also appears from the record that the applicant was demanding his salary but the same was not given by the respondent, may be because of some departmental formalities and for disobedience of the government order. Even the complainant has admitted the fact that order of transfer was not complied by him and therefore his salary was



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withheld. Record also shows that to make the offence graver the applicant and his witnesses have exaggerated their version in the Court and the applicant is trying to take advantage of his belonging to the scheduled caste category. The Court below has acquitted the respondent/accused after considering all the aspects of the matter.

8. Thus after going through the material available on record and being very much conscious of the existing legal position that in an appeal against acquittal if two views are possible on the basis of evidence led by the complainant and the trial Court taking one view favoured the accused, this Court is of the considered opinion that reversion of the findings of acquittal by the appellate Court taking the other possible view into consideration, is not permissible in law and therefore the judgment impugned acquitting the respondent /accused of the offences under Sections 294, 506-II IPC and section 3 (1) (10) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, is just and proper and does not warrant any interference by this Court. Accordingly, the leave to appeal as prayed for is hereby refused. Application filed under Section 378(4) of the Code of Criminal Procedure is thus dismissed.

Sd/-
Pritinker Diwaker
Judge