



2026:CGHC:3796

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRA No. 688 of 2005.**

Om Prakash Agrawal s/o. Girdharilal, aged about 40 years, r/o.  
Near State Bank, Sarkanda, Police Station Sarkanda, District  
Bilaspur (CG).

**---- Appellants**

**Versus**

State of Chhattisgarh through District Magistrate, Bilaspur (CG).

**---- Respondent**

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|---------------|---|-------------------------------------------------------------|
| For Appellant | : | Md. Ruhul Ameen, Advocate and Mr. Anurag Agrawal, Advocate. |
| For State     | : | Ms. Prachi Singh, Panel Lawyer.                             |

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**Hon'ble Shri Justice Narendra Kumar Vyas**

**Judgment on Board**

**22-01-2026**

1. The appellant has preferred this appeal under Section 374(2) of the Code of Criminal Procedure against the judgment of conviction and order of sentence dated 27-8-2005 passed by Special Judge under Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Bilaspur in Special Criminal Case No. 96 of 2003 (State of Chhattisgarh vs. Om



Prakash Agrawal) whereby the appellant has been convicted under Sections 294 of the Indian Penal Code and Section 3 (1) (x) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (henceforth "the Act, 1989") sentenced to pay fine of Rs.500/-, in default stipulation further SI for seven days under Section 294 IPC and sentenced to undergo rigorous imprisonment for six months with fine of Rs.500/- for offence under the Act, 1989 in default of payment of fine to under go further SI for seven days. Both sentences are directed to run concurrently.

2. The case of the prosecution, in brief, is that the complainant/victim lodged a complaint in Police Station Harijan Kalyan Thana, Bilaspur stating therein that on 3-10-2001 at about 1.30 p.m., at Sarkanda, Bilaspur against the appellant due to some business dispute arose between the victim and accused, the accused has abused him by caste, assaulted him and also committed robbery of Rs.400/- from him. It has also been contended that when the other persons namely Krishna Kumar and Har Prasad Sharma objected the appellant, the appellant also threatened them. On the basis of complaint, FIR has been registered by the Police Station, Harijan Kalyan Thana, Bilaspur on 16-6-2002 bearing Crime No.4 of 2002 for commission of offence punishable under Sections 294, 506, 406 of IPC and Section 3 (1) (x) of the Act, 1989.
3. After completion of investigation and collection of material, the prosecution has submitted the charge sheet before the Judicial



Magistrate, Bilaspur and being the offence under Section 3(1)(x) of the Act, 1989, the case was sent for trial before Special Judge (Atrocities), Bilaspur wherein the case was registered as Session Trial No. 96 of 2003.

4. In order to bring home guilt of the appellant, the prosecution has examined as many as 16 witnesses namely- Ram Bajaj (PW/1), Har Prasad (PW/2), Tulsi Das (PW/3), Kisan @ Krishna Kumar Agrawal (PW/4), Tandilal (PW/5), Adiyar Singh (PW/6), Srinivas Shukla (PW/7), Salikram (PW/8), Bharatlal Shukla (PW/9), Uma Shankar (PW/10), Narendra Kumar Tiwari (PW/11), Het Ram Manhar (PW/12), Uttam Singh Gaur (PW/13), Rajesh Kumar Dubey (PW/14), Hiralal Maravi (PW/15) and Umakant Mishra (PW/16) and also exhibited documents namely slips (Ex. P/1, P/1A, P/1B), complaint (Ex. P/2), crime detail form (Ex. P/3), property seizure memo (Ex. P/4 & P/5), residence certificate (Ex. P/6), caste certificate issued by Tahsildar (Ex. P/7), Khasra Panchshala (Ex. P/8 & P/9), report of Additional S.P. Bilaspur (Ex. P/10), arrest memo (Ex. P/11), information about arrest (Ex. P/12), FIR dated 16.06.2002 (Ex.P/13) & copy of dispatch register (Ex. P/14). Statement of accused/appellant has been recorded under Section 313 Cr.P.C., in which he denied the allegation leveled against him plead innocence and false implication. The accused abjured the guilt and entered into defence.
5. Learned trial Court, after appreciating the evidence and material available on record, vide its judgment dated 27-8-2005 has held



that appellant has committed the offences under Section 294 of IPC and Section 3 (1)(x) of the Act, 1989 and thereby convicted and sentenced him for the offences as mentioned in opening paragraph of the judgment.

6. Being aggrieved and dissatisfied with the aforesaid judgment of conviction & order of sentence, instant criminal appeal has been preferred by the appellant challenging the same. This court while admitting the instant appeal on 2-9-2005, has granted bail to the appellant and since then he is regularly appearing before the concerned trial Court.
7. Learned counsel for the appellant would submit that the appellant has been falsely implicated in this case, the trial Court has not appreciated the contradictions and omissions of the prosecution witnesses in its true perspective. He would further submit that the trial Court ought to have seen that the alleged incident took place inside the house of the accused which cannot be said to be a public place, as such the offence under Section 294 of IPC and under Section 3(1)(x) of the Act, 1989 is not made out. He would further submit that the trial Court ought to have seen that the transaction between accused, complainant PW/2 Harparasad and PW/4 Kishan @ Krishna Kumar is of purely civil nature, as such initiation of criminal proceeding is nothing but an abuse of process of law. He would further submit that the trial Court should also have considered that the alleged words used by the accused do not fall within the definition of Section 294 of IPC and Section 3 (1)(x) of the Act,



1989. He would further submit that the appellant/accused has not abused the complainant or any one to intentionally insult or intimidate with intent to humiliate a member of a Scheduled Tribe or Scheduled Caste in any place within the public view.

8. He would further submit that the finding recorded by the learned trial Court that the caste of the complainant has been found proved, is incorrect as the caste certificate (Ex.P7) was issued by the Tahsildar who is not a competent person and the said certificate was a temporary certificate which has been issued after the date of incident on 22.06.2002, therefore, the certificate has no relevancy. Even when the document was exhibited on 19-1-2005, on that day also certificate has lost its significance as temporary caste certificate is valid for six months only. He would further submit that as per judgment passed by Hon'ble the Supreme Court in the matter of **Ku. Madhuri Patil v. Addl. Commissioner, Tribal Development**, reported in **AIR 1995 SC 94** the Tahsildar is not competent authority for issuance of caste certificate and in-fact the competent authority for this purpose, is Sub Divisional Officer (Revenue), as such the conviction of the appellant under the Act, 1989 is illegal. Alternatively, he has prayed for allowing the appeal by reducing the jail sentence to the period already undergone by the appellant on account of long pendency of criminal case as well as regularly attending the proceedings before the trial Court after releasing on bail by this Court as well as his old age.



9. On the other hand, learned counsel for the State would submit that the caste certificate issued by the Tahsildar is a valid document, on the basis of which, caste of the victim has been determined by the trial Court for convicting the appellant under the Act, 1989 and the caste certificate has validly been proved by prosecution, therefore, the order impugned does not suffer from any irregularity or infirmity warranting interference by this Court in the instant appeal.
10. I have heard learned counsel for the parties and perused the material available on record.
11. In view of above, this Court has to see whether caste certificate (Ex.P-7) issued by the Tahsildar is valid document to establish the caste of the victim.
12. For better understanding, the issue raised in this appeal, it is expedient for this Court to examine relevant provisions of the SC/ST Act, 1989 and the relevant provisions of Constitution of India are extracted which read as under:-

“Definition.-(1) in this Act unless the context otherwise requires,-

(c) “ Scheduled Castes and Scheduled Tribes” Shall have the meaning assigned to them respectively’ under clause (24) and clause(25) of article 366 of the constitution.”
13. The provision of Section(1)(v) of the Act is also required to be seen which is reproduced as under:-

“3. Punishments for offences of atrocities.-(1) whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(v) wrongfully dispossesses a member of a Scheduled



Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water: “

14. In view of the foregoing facts, it is apparent that if a person of a scheduled caste or scheduled tribe falls under clause (24) and (25) of Article 366 of the Constitution of India and has been wrongfully dispossessed from his land or premises or interfered with the enjoyment of his rights over the land, premises or water, by the persons not being the member of the scheduled caste or scheduled tribe shall be deemed to have committed the offence of prove the said charge. Clause (24) and (25) of Article 366 specifies the definition of scheduled caste and scheduled tribe which are reproduced as under:-

366. Definitions.- In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say-

(24) “Scheduled Caste” means such Castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;

(25) “Scheduled Tribes” means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;

15. From perusal of the Article 366 of the Constitution of India, it is clear that such castes, races or tribes or parts of groups will be deemed to be scheduled castes or scheduled tribes who are within such castes, races or tribes as are deemed under Article 341 and 342 of Constitution of India. The Article 341 of the Constitution of India makes it clear that the President with respect to any State or Union territory and where it is a State after consultation with the Governor



by public notification specify the castes, races or tribes or parts of or groups within castes, races or tribes shall be called to be the scheduled castes or scheduled tribes in relation to that State or Union territory as the case may be. In the said context, it is required to be seen that the prosecution has to establish a case that the complainant belongs to a particular caste or parts of groups or races within the caste which falls within the notified scheduled castes or scheduled tribes to prove the charge under Section 3(1)(v) of the Prevention of Atrocities Act at home.

16. In this respect, after going through the record it can safely be observed that the prosecution has not submitted any caste certificate to prove that complainant belongs to scheduled tribe community as the investigating officer has not filed any document to prove that the complainant belongs to Gond which is scheduled tribe. The victim was examined as PW-3 but he has not stated in his court statement that the appellant knowingly abused him by caste. It can safely be held that merely saying by the complainant that he belongs to Gond is not enough, it is required to be proved by cogent and unimpeachable evidence that the complainant falls within the caste, races or tribes or parts of groups within such castes, races or tribes which has been notified as Scheduled Castes or Scheduled Tribes. In absence thereof, a caste certificate issued by competent authority ought to be produced by the prosecution discharging such burden, therefore, the offence as alleged under Section 3(1)(v) of the Act, 1989 has not been made out.
17. The record of the case would demonstrate that the caste certificate issued by the Tahsildar in the year 2002 i.e. after the date of incident on 03-10-2001 which cannot be a valid document to prove the caste



of the complainant. In this regard it can safely be observed that while specifying the offences under sub-Section (1) to (xvi) of Section 3 of the Act, 1989, it is clear that different act indicating commission of offence has been described and in every sub-Section it has been made clear that the offence relating to atrocities of a member whoever not being a member of a Scheduled Castes or Scheduled Tribes is punishable. In such circumstances, it is incumbent upon the prosecution to prove that the complainant belongs to Scheduled castes or Scheduled Tribes community and the member not being Scheduled caste or Scheduled Tribes committed any of the offence specified in Section 3(1) to (xvii) of the Act, 1989 in such circumstances, it can be observed that filing of caste certificate is sine-qua-non, or the legal or cogent oral unimpeachable evidence specifying the said ingredients ought to be produced to prove the offences of Atrocities Act. In this regard, the Madhya Pradesh High Court in the case of **Bharat Singh Vs. State of M. P.** reported in **2006(4) MPLJ 174** in paragraph 4 has held as under:-

“4. After hearing the learned counsel for the parties and perusing the entire record, this Court is of the considered view that the conviction of the appellants is not sustainable because the prosecution has failed to establish by adducing cogent and reliable evidence that the complainant (PW01) Remeshwar belonged to the Scheduled Caste or Scheduled Tribe community. In the Court Statement Rameshwar (PW-1) has deposed that he belongs to BALAI caste but no-where he has stated that his caste falls within the category of scheduled caste or scheduled Tribe. None of the prosecution witnesses has stated so though the appellants have admitted that the complainant belong to BALAI Community but that itself is not sufficient to establish that the complainant belonged to the scheduled caste community. Learned trial Court, without any evidence on record, has held in para 8 of the judgment that the complainant Rameshwar (PW-1) and Sobalsingh (PW-2) belong to the Scheduled caste community. The authority to prove that the caste of the complainant Rameshwar falls within the category of Scheduled Caste. Filing of caste certificate is sine-qua-non.”



18. In the case of **Jukum Singh Vs. State of M.P. 2003(2) MPWN(79)**, it has been held that the victim must belong either to a scheduled caste or scheduled tribe ought to be established by unimpeachable evidence. On failing to prove by the prosecution, the said charge cannot be found established.
19. Madhya Pradesh High Court in the case of **Tulsiram Vs. State of Madhya Pradesh** reported in **2012 C.L.R.(M.P.) 765** has held that the victim ought to have proved her caste by producing the caste certificate, mere oral evidence is not sufficient to assume that her caste covered under the act. Similarly, this Court in a recent judgment in the case of **Ashraf Khan Vs. State of Madhya Pradesh**, reported in **2013 Cr.L.J. (CG)76** has observed that filing and proving the caste certificate is a sine-qua-non to prove the offence under the Act.
20. The Madhya Pradesh High Court again in the matter of **Ashok and Others Vs. State of M. P.** reported in **ILR (2015) MP 2475** has held at paragraph 13 which reads as under:-

“13. Similarly, when it is not proved that the offence committed by the appellants was committed due to the caste of the complainant, therefore, only uttering the word “Chamra”, it cannot be said that the appellants insulted the complainant on the basis of his caste. In this connection the judgment passed in the case of “Anil Kumar Pandey V. Daulat Prasad”, [MMANU/MP/0181/2005: 2005(4) MPLJ 467] may be referred, in which it is held that if someone has been called by name of his caste without any intention to insult or humiliate a member of scheduled casts, then no offence under Section 3(1)(x) of the Special Act is made out. In the light of the aforesaid judgment, the trial Court has committed an error in convicting the appellants of offence under Section 3(1)(x) of the Special Act.”
21. The procedure for issuance of caste certificate has been well prescribed by the Hon'ble Supreme Court in the matter of **Ku. Madhuri Patil** (supra) which laid down the forum and procedure for issuance of/assailing caste certificate and the



status of candidate. Thus, in view of the aforesaid dictum of Hon'ble the Supreme Court, the aforesaid caste certificate has no evidentiary value, as it has not been issued by incompetent authority and the prosecution has failed to discharge his burden to prove the caste as discussed above. Apart from this, from the perusal of evidence available on record, it is evident that the appellants have not abused the complainants in filthy language knowing that they belong to Scheduled Tribe Community, as such no offence under Section 3 (1)(x) of the Act, 1989 is made out **(See: Sohanvir @ Sohanvir Dharma vs. State of UP and another, reported in 2025 INSC 1397)**. This can be fortified from the bare perusal of the statement of the victim – Tulsiram.

22. Considering the law laid down by the Hon'ble Supreme Court evidence, material on record, it is quite vivid that the prosecution has failed to prove the caste of the victim beyond reasonable doubt, therefore, the conviction of the appellant for commission of offence under Section 3(i)(x) of the Act, 1989 and imposition of fine, is set aside and the appellant is acquitted from this charge only.
23. So far as offence under Section 294 of IPC is concerned, it is clearly proved by the prosecution beyond reasonable doubt and there is no effective cross-examination on this point and thus, the appellant has been rightly convicted for commission of offence under Section 294 of IPC. Thus, this Court is of the firm view that the offence under Section 294 of the IPC is



made out against the appellant, therefore, the conviction of the appellant under Section 294 of IPC is hereby affirmed. It has been informed by learned counsel for the appellant that the fine amount has already been deposited by the appellant while granting bail by this Court.

24. Accordingly, the criminal appeal is partly allowed by setting the conviction of the appellant under Section 3(1)(x) of the Act, 1989. The appellant is reported to be on bail. His bail bond shall continue for a further period of six months from today in view of Section 437-A of Cr.P.C.

Sd/-

**(Narendra Kumar Vyas)**  
**Judge**

Raju