



2026:CGHC:8725

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 38 of 2016**

Gopi Ratre S/o Ghurau Ratre Aged About 50 Years R/o Vikash Nagar,
Champa Road, Korba, Tahsil And District Korba Chhattisgarh.,
Chhattisgarh

--- Appellant**versus**

1 - State Of Chhattisgarh Through The Station House Officer, Police
Station City Kotwali, Korba, District Korba Chhattisgarh., Chhattisgarh

2 - Pankaj Devda S/o Pramod Devda Aged About 32 Years R/o Near
Bajrang Talkies, Korba, District Korba Chhattisgarh., District : Korba,
Chhattisgarh

3 - Pramod Devda S/o Late Mahaveer Prasad Devda Aged About 52
Years R/o Near Bajrang Talkies, Korba, District Korba Chhattisgarh.,
District : Korba, Chhattisgarh

--- Respondent(s)

For Appellant(s)	: Mr. Rudra Pratap Dubey on behalf of Mr. Goutam Khetrapal, Advocate
For Respondent/State	: Mr. Jitendra Shrivastava, G.A.
For Respondent No. 2 & 3	: Ms. Mahi Pandey on behalf of Mr. Chandresh Shrivastava, Advocate

CRA No. 299 of 2016

1 - Pankaj Devda S/o Shri Pramod Devda Aged About 32 Years R/o
Near Bajrang Talkies, Korba, District Korba, Chhattisgarh., Chhattisgarh
2 - Pramod Devda S/o Late Shri Mahavir Prasad Devda Aged About 52
Years R/o Near Bajrang Talkies, Korba, District Korba, Chhattisgarh.,
District : Korba, Chhattisgarh

---Appellant(s)

Versus

State Of Chhattisgarh Through Police Station Kotwali, Korba, District
Korba, Chhattisgarh., Chhattisgarh

--- Respondent(s)

For Appellant(s) : Ms. Mahi Pandey on behalf of Mr. Chandresh
Shrivastava, Advocate
For Respondent(s) : Mr. Jitendra Shrivastava, G.A.

Hon'ble Shri Justice Arvind Kumar Verma

Judgment on Board

18/02/2026

1. The acquittal appeal bearing ACQA No. 38 of 2016 has been filed by the appellant under Section 372 of Cr.P.C., 1973 against the judgment of conviction and order of sentence dated 21.01.2016 passed by the Court of Special Judge, Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, District-Korba (C.G.) in Special Sessions Trial No. 21/2013 whereby the respondent no. 2 and 3 have been acquitted from the offence

punishable under Sections 506 part 2 of IPC and Section 3(1)(x) of SC/ST Act.

2. The Criminal Appeal bearing CRA No. 299 of 2016 has been filed by the appellants under Section 374(2) of the Cr.P.C., 1973 against the judgment of conviction and order of sentence dated 21.01.2016 passed by the Court of Special Judge, Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, District-Korba (C.G.) in Special Sessions Trial No. 21/2013, whereby the appellants stands convicted as under:

<u>CONVICTION</u>	<u>SENTENCE</u>
U/s 294 of IPC	Fine of Rs. 500/- in default of fine, additional S.I. for 5 days.
u/s 323/34 of IPC	Fine of Rs. 1000/- in default of fine, additional S.I. for 1 month.

3. Case of the prosecution in brief is that, the complainant Nagendra Singh is a member of a Scheduled Tribe. On 26.06.2008 at about 12:30 PM, Nagendra Singh was cleaning the land belonging to Tripti Bajaj Auto Agency. During that time, the accused persons Pankaj Devda and Pramod Devda came to the spot and started abusing Nagendra Singh and the other persons engaged in cleaning work with filthy abuses referring to their mothers and sisters. They said that if the land was cleaned, it would not be good and they threatened them. While threatening, they pushed Chhotu Yadav, who was also cleaning there, causing him to fall down and sustain simple injuries. The accused persons were also abusing Gopi Raj, another person involved in cleaning work,

using caste-related insulting words. On the report lodged by complainant Nagendra Singh regarding the said incident at Police Station Kotwali, Korba on 26.06.2008, FIR was lodged bearing No. 650/08 under Sections 294, 506, 323/34 of IPC, and the case was taken up for investigation. During investigation, the statements of the complainant and witnesses were recorded. A spot map was prepared. After completion of the investigation, a charge-sheet was filed against the accused persons.

4. Learned counsel for the appellant in acquittal appeal bearing ACQA No. 38 of 2016 submits that the impugned judgment of acquittal dated 21.01.2016 is contrary to law, facts and circumstances of the case, therefore liable to be set-aside. On the basis of statement of appellant and Nagendra Singh/victim, the learned JMFC, Korba has found that the offence under Section 3(1)(x) of SC/ST Act, 1989 is made out, therefore the case was committed to the Special Judge, Korba under Section 209 of Cr.P.C. for trial. The learned Special Judge has gravely erred in acquitting the respondents no. 2 and 3 from the offence under Section 3(1)(x) of SC/ST Act, 1989. The learned Special Judge ought to have relied upon the statement of witnesses Gopiram Ratre and Narendra Singh recorded by the JMFC, Korba instead of relying upon the case diary statement. Only on the discrepancies in the case diary statement, the impugned judgment of acquittal passed by the Special Judge is not sustainable at all.

5. Learned counsel for the appellants in criminal appeal would submit that the appellants are first-time offenders and the incident is of the year 2008. They have faced prolonged trial for several years and the injuries caused were simple in nature. Therefore, benefit under Section 4 of the Probation of Offenders Act, 1956 be extended.
6. Learned counsel for the State supports the judgment of conviction.
7. I have heard learned counsel for the respective parties and perused the judgment as well as other material available on record with utmost circumspection.
8. P.W.-1/Complainant has stated that on the date of incident, while the cleaning work was going on, the appellants came to the spot and started abusing in filthy language. He further deposed that the appellants pushed Sushil @ Chhotu Yadav, who fell down and sustained injuries. However, in his cross-examination, this witness admitted that he belongs to Rajput (general category), thereby weakening the prosecution case under the SC/ST Act. He also did not depose about any assault upon himself. His testimony, to the extent of abuse and pushing of the injured, remains consistent and reliable.
9. P.W.-2/ Gopi Ratre has supported the prosecution case by stating that the appellants abused and misbehaved at the spot. He also stated about caste-related remarks. However, in cross-examination, he admitted that the appellants were not previously

known to him, and he could not explain how they knew his caste. This creates doubt regarding the allegation under the SC/ST Act. Nevertheless, his testimony corroborates the factum of abuse and presence of the appellants.

10. P.W.-3 (Sushil @ Chotu Yadav) has categorically stated that the appellants pushed him, due to which he fell on the ground and sustained injuries. His testimony is natural and trustworthy. No material contradiction has been elicited in cross-examination. The defence has failed to discredit his version. Being an injured witness, his testimony carries great evidentiary value.
11. P.W.-4 has corroborated the statements of PW-1 and PW-3 regarding the incident. He has stated that the appellants abused and pushed the injured. Though there are minor omissions regarding caste-related abuses, his testimony strengthens the prosecution case regarding the occurrence.
12. P.W.-5 (Investigating Officer) has proved FIR (Ex. P-1), Spot map (Ex. P-2) and Medical requisition (Ex. P-3). He has admitted in cross-examination that caste-related abuses were not clearly mentioned in the FIR, which weakens that part of the prosecution case. However, investigation regarding the incident and preparation of documents stands duly proved.
13. P.W.-6 (Medical Officer) has proved the medical report of the injured. He found the abrasion on the left knee, injury within 5 hours of examination, nature of injury: simple. Though he

admitted that such injury could occur by falling, this does not demolish the prosecution case, as the fall itself is attributed to the act of the appellants. His evidence fully corroborates the testimony of the injured witness.

14. From the consistent testimony of PW-3 (injured witness), duly corroborated by PW-1, PW-2, and PW-4, and supported by medical evidence of PW-6, it stands proved that the appellants pushed the injured; the injured fell and sustained simple injuries; the act was done in furtherance of common intention. Thus, the offence under Section **323/34 IPC** is proved beyond reasonable doubt.
15. All eyewitnesses have consistently deposed that the appellants used filthy abuses in a public place. The place of occurrence is near a public road. Hence, the ingredients of Section **294 IPC** are clearly made out.
16. The evidence on record shows lack of prior acquaintance between parties; absence of clear mention in FIR; contradictions in witness statements. Thus, it cannot be said that the appellants intentionally insulted the victim knowing his caste. Therefore, the acquittal under the SC/ST Act is justified.
17. As a result, the acquittal appeal bearing ACQA No. 38 of 2016 is **dismissed on merits.**
18. While affirming the conviction of the appellants under Sections 294 and 323/34 IPC, this Court now proceeds to consider

whether the appellants deserve to be extended the benefit of Section 4 of the Probation of Offenders Act, 1956.

19. For ready reference, relevant provisions of Sections of the Probation of Offenders Act, 1958 reads as under:

4. Power of Court to release certain offenders on probation of good conduct

(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the Court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period not exceeding three years, as the Court may direct, and in the meantime to keep the peace and be of good behaviour.

12. Removal of disqualification attaching to conviction. - Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:

Provided that nothing in this section shall apply to a

person who, after his release under section 4, is subsequently sentenced for the original offence.

20. Section 4 of the Act empowers the Court to release a convicted person on probation of good conduct instead of sentencing him to imprisonment, having regard to the circumstances of the case, including the nature of the offence and the character of the offender.
21. In the present case, the offence proved against the appellants is under Sections 294 and 323/34 IPC. The injury sustained by the victim is simple in nature, as duly established by medical evidence. The act attributed to the appellants is that of pushing the injured, resulting in a fall and consequent minor injury. The offence, though not to be trivialized, does not fall within the category of grave or heinous offences. It does not involve moral turpitude of a high degree, nor does it reflect brutality. There is no material on record to indicate that the appellants have any prior criminal antecedents. The prosecution has not brought on record any previous conviction against them. Thus, it can safely be inferred that the appellants are first-time offenders, which is a significant factor for extending the benefit under Section 4 of the Act.
22. The incident in question occurred in the year **2008**, and the appellants have undergone the ordeal of criminal proceedings for a considerable period extending over more than a decade. The prolonged pendency of the case itself has had a deterrent and

reformatory effect on the appellants. Sending them to incarceration at this stage would serve no useful purpose and may rather be counterproductive. There is nothing on record to suggest that the appellants have misused the liberty granted to them during the pendency of trial or appeal. They have faced the proceedings and cooperated with the process of law. Such conduct indicates that the appellants are capable of reformation and can be rehabilitated in society without being subjected to imprisonment.

23. The object of the **Probation of Offenders Act, 1956** is reformatory rather than punitive. The Act seeks to prevent the conversion of first-time offenders into habitual criminals by avoiding incarceration and providing an opportunity for reformation. The Hon'ble Supreme Court has consistently held that in appropriate cases involving minor offences and first-time offenders, the benefit of probation should be liberally extended.
24. This Court is conscious that the power under Section 4 of the Act is discretionary and must be exercised judiciously. Considering the totality of circumstances—nature of offence, character of the offenders, absence of antecedents, and long lapse of time—this Court finds it to be a fit case for exercising such discretion in favour of the appellants. This Court is conscious that the power under Section 4 of the Act is discretionary and must be exercised judiciously. Considering the totality of circumstances—nature of offence, character of the offenders, absence of antecedents, and

long lapse of time—this Court finds it to be a fit case for exercising such discretion in favour of the appellants. The benefit of probation is extended to the appellants as a measure of reformatory justice, balancing the rights of the victim with the possibility of rehabilitation of the offenders.

25. Accordingly, conviction of appellants is hereby affirmed, however, fine amount awarded to the appellants by the trial Court are hereby set-aside. It is directed that appellants be released on probation under Section 4 of the Probation of Offenders Act, 1958 on their furnishing the personal bond of Rs. 10,000/- each for the period of 6 months from the date of judgment. The appellants shall maintain the peace and be of good behaviour.
26. However, it is made clear that the appellants shall not suffer any disqualification in their service career on account of their conviction under Section 323 of IPC as provided under Section 12 of the Probation of Offenders Act, 1958.
27. In the result, the criminal appeal bearing CRA No. 299 of 2016 is **allowed in part** indicated herein above.
28. The record of the trial Court along with copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-
(Arvind Kumar Verma)
JUDGE