IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 29th OF DECEMBER, 2023

CRIMINAL APPEAL No. 2270 of 2004

BETWEEN:-

CHETRAM, S/O SUKARATDAS PANIKA, AGED ABOUT 35 YEARS, R/O VILLAGE GHUGHARI, POLICE STATION BIJADANDI, DISTRICT MANDLA (MADHYA PRADESH).

.....APPELLANT

(BY SHRI ADITYA VYAS - ADVOCATE)

AND

THE STATE OF M.P. THROUGH SC/ST THANA, POLICE STATION BIJADANDI, DISTRICT MANDLA (MADHYA PRADESH).

.....RESPONDENTS

(BY MS. SHIKHA SINGH BAGHEL - PANEL LAYWER)

This appeal coming on for hearing this day, the court passed the following:

JUDGEMENT

The present appeal has been preferred under Section 374(2) of the Code o f Criminal Procedure challenging the judgment of conviction and order of sentence passed by the Special Judge, Mandla in Special Case No. 73/2003, dated 14.12.2004, whereby the learned Special Judge has convicted the appellant under Section 323 of the Indian Penal Code and Section 3(1)(x) of SC and ST (Prevention of Atrocities) Act, 1989 and sentenced to undergo 6 months' RI and fine of Rs. 500/- and in default, to further undergo 2 months' RI for offence under Section 3(1)(x) Act of 1989 and 3 months RI for Section 323 of IPC.

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2. Learned counsel appearing on behalf of the appellant submits that the complainant has lodged a false report. It is submitted that prosecution has failed to prove the case beyond reasonable doubt. He prayed for acquittal of the appellant.

3. *Per contra,* the learned Panel Lawyer appearing on behalf of the respondent/State supported the judgment and argued that the witnesses have duly proved the incident and involvement of the appellant in the offence and prayed that appeal be dismissed.

4. After considering the statements of the witnesses, arguments of both the parties and after perusal of record, it appears that FIR was lodged on 02.08.2003 by Kashiram Gond against the present appellant at Police Station Bijadandi, District Mandla, registered as Crime No. 98/2003, under Sections 294, 323, 506 of Indian Penal Code and Section 3(1)(x) of the SC and ST (Prevention of Atrocities) Act, 1989 and after investigation, charge-sheet has been filed.

5. Prosecution examined four witnesses. However, defence has examined two witnesses. PW-1 Kashiram narrated the incident and involvement of the appellant, however, he has not stated anything in respect of insulting him by taking name of his caste. Similarly, PW-2 Dassu Lal Marawi has not stated anything in respect of insulting the complainant by taking the name of his caste. They have stated in respect of the injuries caused to the complainant. PW-4 Dr. Jitendra Kumar Jain explained the injuries, however, accepted that injuries were simple in nature. The learned Special Judge by judgment dated 14.12.2004 convicted the appellant under Section 323 of Indian Penal Code and Section 3(1)(x) of the Act of 1989. The conviction of the appellant under Section 3(1)

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(x) of the Act of 1989 cannot be sustained as no caste certificate of the complainant was proved during trial and the complainant and witness did not state anything in respect of insulting the complainant by taking the name of his caste by the appellant. Resultantly, the conviction under Section 3(1)(x) of the Act of 1989 is set aside and the appellant is acquitted from the charge punishable under Section 3(1)(x) of the Act of 1989. However, conviction under Section 323 of IPC is upheld. Sufficient material is available against the appellant to prove the commission of offence punishable under Section 323 of IPC.

5. In view of the fact that the incident happened in the year 2003, the prosecution has not brought any past criminal antecedents of the appellant on record, appellant remained in jail from 08.08.2003 to 11.08.2003, no minimum sentence is prescribed under Section 323 of IPC, I deem it proper to reduce the jail sentence of the appellant to the extent of the period which he has already undergone and accordingly, jail sentence is reduced to the period already undergone. However, a fine of Rs. 1000/- is imposed upon the appellant for commission of offence under Section 323 of IPC. The appellant shall deposit the fine amount within a period of two months from today. The appellant is on bail, his personal bonds and bail bonds be discharged. Accordingly, the appeal is **partly allowed.**

6. Record of the trial Court be sent back along with copy of the judgment.

(VINAY SARAF)
JUDGE

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