

**(2014) 07 CHH CK 0032**  
**In the Chhattisgarh High Court**  
**Case No : Cri. M.P. No. 222 of 2013**

The State of Chhattisgarh

APPELLANT

Vs

Laxmiprasad Yadav

RESPONDENT

**Date of Decision :** 03-07-2014

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 378(3)  
Penal Code, 1860 (IPC) — Section 294, 506  
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —  
Section 3(1)(x)

**Citation :** (2014) 4 CGLJ 256 : (2014) CriLJ 4103 : (2015) 1 MPJR 39

**Hon'ble Judges :** Sanjay K. Agrawal, J

**Bench :** Single Bench

**Advocate :** Raj Kumar Gupta, Deputy Govt. Advocate, Advocate for the Appellant; Anil Gulati, Advocate for the Respondent

## Judgement

Sanjay K. Agrawal, J.

1. Seeking leave to appeal under Section 378(3) of the Cr.P.C. the instant appeal has been filed by the State questioning the order of acquittal dated 28-3-2011 passed by Special Sessions Judge under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Korba, District Korba (hereinafter called as "Special Judge (Atrocities)") in Special Sessions Trial No. 56/2006, by which, the respondent has been acquitted from the charges framed under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter called as "Atrocities Act"). The case of the prosecution, in Short, is that on 29-9-2009, at about 9.30 a.m. the respondent, at village, Police Station Kartala abused the complainant-Kamal Singh Rathiya (P.W. 1), member of Scheduled Tribe at public place in the name of caste and threatened him to kill. Thereafter, the complainant lodged First Information Report (Exhibit-P/1) to the police station Kartala and offence under Sections 294, 506, Part-II, IPC and 3(1)(x) of the Atrocities Act was registered against the respondent.

2. To establish the charges under the aforesaid provisions, during the course of investigation, the police has prepared spot map and also statements of witnesses were recorded. Caste certificate of the complainant was seized and after completion of investigation, charge-sheet was filed before the jurisdictional Criminal Court.

3. Thereafter, the learned Special Judge (Atrocities) framed the charges for the aforesaid offences, which was pleaded no guilty by the respondent herein.

4. In order to bring home the offence, prosecution examined as many as six witnesses and brought six documents (Exhibits-P/1 to P/6) in support of his case, whereas, defence examined two witnesses and brought no document.

5. Upon appreciation of evidence available on record, the learned Special Judge (Atrocities), by its order dated 28-3-2011, convicted the respondent for the offence punishable under Section 294, IPC and acquitted for the offence punishable under Section 506, Part-II read with Section 3(1)(x) of the Atrocities Act.

6. Against the order of acquittal dated 28-3-2011, the State/appellant has sought leave to file appeal.

7. Mr. Raj Kumar Gupta, learned Deputy Govt. Advocate appearing for the State/Appellant would submit that learned Special Judge (Atrocities) has committed manifest error in acquitting the respondent for the offence punishable under Section 3(1)(x) of the Atrocities Act, as such, the order of acquittal is bad in law.

8. I have heard learned counsel for the appellant.

9. In order to judge the correctness of the impugned order, it would proper to notice Section 3(1)(x) of the Atrocities Act:--

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

(i)--(ix) xxx xxx xx

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

10. Thus, to bring home an offence punishable under Section 3(1)(x) of the Atrocities Act, the prosecution is to prove following ingredients:

(i) "that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe.....";

(ii) the complainant "was intentionally insulted or intimidated by the accused";

(iii) such intentional insult or the intimidation was "with intent to humiliate" such

member; and

(iv) this intentional insult or intimidation with an intent to humiliate must be in a place within "public view".

11. In order to consider as to whether prosecution has established the aforesaid ingredients of Section 3(1)(x) of the Atrocities Act, it would proper to have a quick look of the statement, particularly paragraph-6, made by complainant-Kamal Singh Rathiya (P.W. 1), which reproduced here:--

12. From the perusal of the aforesaid statement of complainant, it would appear that the respondent has abused him simply without their being any intention, insult or humiliate him as a member of Scheduled Tribe.

13. After considering the aforesaid fact, the learned Special Judge (Atrocities) clearly recorded a finding that simple abuse made by the respondent to complainant cannot be said to be an offence under Section 3(1)(x) of the Atrocities Act and acquitted him from the aforesaid offence.

14. The words "intentional", "insult" and "humiliation" has not been defined in Act, which has been employed Section 3(1)(x) of the Atrocities Act. To constitute an offence under Section 3(1)(x) of the Act, it is necessary that whoever, not being a member of a scheduled Caste intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. The words "intentional", "insult" and "humiliation" have been used in this Section but they have not been defined in the Act. As per Webster Dictionary, the word "intent" means having the mind bent on an object, "intentional" means done purposely. The term "intentional" has been used in relation to act done by or with intention, which means to do wrong with intent. As per law Lexicon, a person who, by his declaration, act or omission, had caused another to belief a thing to be true and to act upon that belief, must be held to have done so "intentionally" within the meaning of the Statute. As per Webster, "to insult" is to treat with abuse, insolence, or contempt; to commit an indignity upon, as to call the main liar. A gross indignity offered to another whether by act or by word is known as "insult". An insult is an indolent attack. It is more easy to imagine an affront where none was intended than an insult. As per Webster, in common Parlance the word "humiliation" means to lower the dignity of, painfully humbling, the state of being humble and free from pride. As per Oxford dictionary "humiliate" means to cause a person to feel disgrace, humble condition or attitude of mind. In the background of the definition of the aforesaid words, to prove the offence under the aforesaid section, it is necessary that there must be an element of intentionally committing the insult or intimidating with intent to humiliate a member of Scheduled Caste and for that the evidence of the witness should be consistent and reliable.

15. In case of Gorige Pentaiah Vs. State of A.P. and Others, , the Supreme Court has clearly held that intentional insult or intimidation by the accused with intent to humiliate in a place within public view is a necessary ingredient for the said

offence and held as under:--

"6.....According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the accused-appellant was not a member of the Scheduled Caste or a Schedule Tribe and he (respondent No. 3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate respondent No. 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law."

16. Again, in case of Amir and Another Vs. State of Madhya Pradesh, , wherein a Division Bench of Madhya Pradesh High Court has held that making out a case under the provisions of SC/ST Act the offence must be committed against the complainant on the ground that such person is a member of Scheduled Caste or Tribe.

17. Similarly, in case of Anil Kumar Pandey Vs. Daulat Prasad, , the Madhya Pradesh High Court has held that mere utterance of word "Chamar" without there being any intention to insult or humiliate a member of Scheduled Caste would not make out the offence under Section 3(1)(x) of the Atrocities Act.

18. Thereafter, in case of Jasrath Singh and Another Vs. State of Madhya Pradesh, , the Madhya Pradesh High Court has held that merely calling a person from the caste name without proof of any intention of insulting or humiliating do not constitute the offence under Section 3(1)(x) of the Atrocities Act.

19. Thereafter again, in case of 970634--> , the Madhya Pradesh High Court has followed the decision of Amir and Another Vs. State of Madhya Pradesh, , Anil Kumar Pandey Vs. Daulat Prasad, and Jasrath Singh (supra).

20. Thus, it is held that in the instant case, merely calling the complainant by accused from his caste (Kawar Adiwashi) as there is no proof of intention of insulting or humiliating him, do not constitute an offence under Section 3(1)(x) of the Atrocities Act and there is also no proof brought on record that the respondent is not the member of Scheduled Caste or Scheduled Tribe.

21. Thus, the finding recorded by the Special Judge (Atrocities) holding that the appellant/State has failed to establish the necessary ingredients for constituting an offence under Section 3(1)(x) of the Atrocities Act that the accused/respondent intentionally insulted or intimated the complainant with intent to humiliate in a public view, is a one of the possible view i.e. emanating, flowing from the record, which cannot be said to be perverse or so unreasonable, as requiring interference in the order of acquittal. (Kindly see: Chinnam Kameswara Rao and Others Vs. State of A.P. Rep. by Home Secretary, and Anjanappa Vs.

State of Karnataka, . As a fallout and consequence of aforesaid discussion, leave to appeal sought by State under Section 378(3) of the Cr.P.C. is hereby refused and Cr. M.P. is accordingly dismissed.