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**ABC 2019 (III) 9 SC**  
**ACQUITTAL & BAIL CASES**  
**SUPREME COURT OF INDIA**  
(Arun Mishra & Uday Umesh Lalit, JJ.)  
Criminal Appeal No. 883 of 2019  
(Arising out of Special Leave Petition (Criminal) No.1907 of 2019)  
(From Chhattisgarh High Court)  
Decided on 10 May, 2019

**NARAD PATEL** **- Appellant(s).**

*Versus*

**SATE OF CHHATTISGARH** **- Respondent(s).**

**Law Covered:-** (A) Indian Penal Code, 1860 – Section 294 – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 – Section 3(1) (x) – Conviction under – Abuses hurled by the accused – Not asserted by the complainant the accused referred to the caste or tribe of the complainant – though asserted by other witnesses – Offence u/s 3(1) (x) not made out – set aside – conviction u/s 294 maintained. (Para 7 & 8)

**Law of relief:-** An allegation is not asserted by the complainant but finds place in the evidence of other witness is fatal to prosecution.

**Held:-** Going by the version of the complainant Deshiram himself, the expressions used by the appellant during the course of vertical altercation, did not refer to the caste or tribe that the complainant belonged though such assertion finds place in the testimony of the other witnesses. (Para-7)

Thus, the fact that the appellant abused the complainant Deshiram is quite clear and as such his conviction and sentence recorded under Section 294 IPC was fully justified. However, going by the version of the complainant Deshiram according to which there was no reference to the caste or tribe of the complainant, there is a doubt as regards charge under Section 3(1) (x) of the Act. (Para-8)

**Counsel:-** For Appellant(s) : Vikrant Singh Bais, Adv.

For Respondent(s) : Nishanth Patil, Adv.

### **JUDGMENT**

**UDAY UMESH LALIT, J.:** - 1. Leave granted.

September 2019

2. This appeal challenges the correctness of the final Judgment and Order dated 27.11.2018 passed by the High Court of Chhattisgarh at Bilaspur in Criminal Appeal No.1101 of 2002. a

3. The appellant was tried in Special Case no.13 of 2002 on the file of the Special Judge, Raigarh, Chhattisgarh for having committed offences punishable under Sections 294, 506-B of IPC and under Section 3(1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("the Act", for short) . It was alleged that during the night intervening 30.09.2001 and 01.10.2001 the appellant had cut the hedge (Medh) of the paddy field of complainant Deshiram as a result of which the field of Deshiram went without any water. A Panchayat was called on the next day i.e. on 01.10.2001 in which the appellant allegedly abused complainant Deshiram and his brother Shyam Sunder and threatened to kill them. It was alleged that appellant abused said complainant Deshiram and his brother who were members of a Scheduled Tribe and thereby committed offence under Section 3(1) (x) of the Act. During the trial, certain witnesses who had attended the Panchayat Meeting were examined and the Special Judge, Raigarh by his judgment and order dated 23.09.2002 found the appellant guilty of the offences under Section 294 IPC and Section 3(1) (x) of the Act. The appellant was sentenced to suffer rigorous imprisonment for three months on the first count and for six months under the second count with further imposition of fine and default sentence. The appellant was however acquitted of the charge under Section 506 IPC. b c d e f

4. In Criminal Appeal No.1101 of 2002 arising from the conviction and sentence as aforesaid, the High Court affirmed the view taken by the Special Judge and dismissed the appeal by its judgment and order dated 27.11.2018, which is presently under appeal. g

5. We heard Mr. Vikrant Singh Bais, learned Advocate for the appellant and Mr. Nizam Pasha, learned Advocate for the respondent. h

6. It is a matter of record that the appellant has already completed more than 4 months of imprisonment.

7. It has been found that the appellant was not guilty of the offence under Section 506 IPC and the case presented by the prosecution in that behalf was completely rejected. According to the record, following certain acts committed by the appellant a Panchayat was held in which some abuses were hurled by the appellant. Going by the version of the complainant Deshiram himself, the expressions

