

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 2151 of 1998

- State of M.P. through District Magistrate, Raigarh

---- Appellant

Versus

1. Ravindra Yadav, S/o Luturu Yadav, aged about 35 years.
2. Pardeshi, S/o Kartikram Nishad, aged about 26 years.
3. Hirawar, S/o Bali Vinjhwar, aged about 20 years.
4. Beda, S/o Mohit Banjara, aged about 18 years.

All R/o Risora (Chhote), P.S. Sariya, Tah. Sarangarh, Distt. Raigarh (M.P.) (now C.G.)

---- Respondents

For Appellant / State	:	Mr. Suryakant Mishra, Panel Lawyer
For Respondents	:	Mr. S.S. Baghel, Advocate

Hon'ble Shri Justice Inder Singh Uboweja

CAV JUDGMENT

Delivered on : 02-09-2015

- 1) This is an acquittal appeal filed against the judgment of acquittal dated 09.03.1998 passed by the Judicial Magistrate First Class, Sarangarh, District – Raigarh in Criminal Case No. 29/1997, whereby the trial Court has acquitted the respondents / accused from the charges under Sections 353/34 and 186 of the IPC.
- 2) Case of the prosecution, in brief, is that complainant Ramdeo Tiwari (PW-1) was posted as Forest Guard R.F. No. 1036 in the Forest Department. On 28.10.1996, while he was on search duty, at the relevant time accused / respondents were cutting tree in the forest of Tilaidadar. After hearing the sound of cutting of tree, he reached the spot and saw the accused persons cutting the tree. He measured the tree and prepared seizure memo vide Ex.P-1 and

P.O.R. vide Ex.P-2, but accused persons denied to put signature on that papers. He demanded axe from accused Ravindra, but he denied to give his axe, then he tried to catch the axe, but he failed to do so, all the four accused persons caught hold him and accused Ravindra torn his official dress, they also assaulted him by hands and fists. At this juncture Jadu (PW-2) reached there and separated them. Thereafter, complainant reported the incident in police station, Sariya. Police has investigated the incident and after concluding the investigation, charge sheet under Sections 353/34 and 186 of the IPC was filed against the accused persons before the Judicial Magistrate First Class, Sarangarh.

- 3) In order to bring home the guilt of the accused/respondents, the prosecution examined as many as five witnesses to support its case. Accused persons were examined under Section 313 of the Code, in which they denied the circumstances appearing against them and pleaded innocence and false implication in crime in question.
- 4) After providing opportunity of hearing to the parties, learned Judicial Magistrate First Class, Sarangarh acquitted the accused/respondents from the charges under Sections 353/34 and 186 of the IPC.
- 5) Mr. Suryakant Mishra, learned Panel Lawyer appearing for the appellant / State has submitted that the trial Court has grossly erred in acquitting the accused persons for insufficient evidence

against them, not believing the evidence of complainant Ramdeo Tiwari (PW-1) is unfortunate, he has clearly proved the incident, his version was corroborated by the evidence of eye witness Jadu (PW-2). He further submits that the trial Court while acquitting the accused respondents has not considered the relevant aspects of the matter and thereby committed illegality, therefore, the impugned judgment be set aside.

- 6) *Per contra*, Mr. S.S. Baghel, learned counsel for the respondents opposed the appeal submitted that the trial Court has rightly acquitted the respondents.
- 7) I have heard learned counsel for both the parties and perused the judgment impugned including the record of the trial Court.
- 8) Acquittal was based on disbelieving the evidence of complainant Ramdeo Tiwari (PW-1). He has stated that on the date of incident he was posted as a Forest Guard in Tilaidadar forest R.F. No. 1036, but, he has not filed any reliable and authentic document regarding the same for proving his version. He has also stated that after hearing the sound of cutting of tree, he reached to the spot where he saw that accused persons had already cut down the tree and were cutting it into pieces, he was preparing case against them, at that moment they caught and assaulted him by hands and fists, Jadu (PW-2) came there and separated them. In this case Jadu (PW-2) has not supported the statement of Ramdeo Tiwari, he was also not declared hostile. Prosecution has not filed any

medical report of Ramdeo Tiwari. Therefore, it is also not proved that any bruise or injury was found on his body. There are major contradictions and omissions in the statements of Ramdeo Tiwari (PW-1) and Jadu (PW-2), therefore, his alone evidence is not reliable and trustworthy about the alleged incident.

- 9) Considering the facts and circumstances of the case and on minute scrutiny of the entire evidence, I am of the opinion that the trial Court has not committed any illegality while acquitting the accused/respondents from the charges under Sections 353/34 and 186 of the IPC.
- 10) Consequently, the appeal, being devoid of merit, is liable to be and is hereby dismissed.

Sd/-
(I.S.Uboweja)
JUDGE