

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M. P. No. 318 of 2015**

State of Chhattisgarh through District Magistrate, Raipur, Chhattisgarh.

---- Petitioner**Versus**

Sawairam @ Munna Joshi, aged about 29 years, S/o Premsukh, R/o Samrau, Tahsil & P.S. Oshiya, district Jodhpur.

---- Respondent

For Petitioner/ State : Shri Vinod Deshmukh, Deputy Government Advocate.

HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE & HON'BLE SHRI P. SAM KOSHY, J.**Order On Board****Per NAVIN SINHA, C.J.****03/07/2015**

1. The present petition assails acquittal of the Respondent dated 14.1.2015 by the Sessions Judge, Raipur in Sessions Trial No. 139 of 2014 in a charge under Section 489(B) of Indian Penal Code with regard to possession of counterfeit/ fake currency notes.

2. Learned Counsel for the Petitioner submits that the account holder- Bhanwarlal Sharma, PW3, went to deposit currency notes of Rs.1,15,000/- in his Account in the Bank. The Cashier, PW2, Kotekal Madhwan Johnson found 33 notes of Rs. 500/- each, valued at Rs.16,500/- to be counterfeit/ fake. PW3, Bhanwarlal Sharma stated that the notes in question had been given to him by the Respondent in repayment of loan. The Branch Manager informed the Police after which the First Information Report was lodged. It is evident that the notes in question found to be fake are stated to have been supplied by the Respondent to PW3. The currency notes in

question have been found to be fake by the Government Press at Nasik.

3. We have considered the submission on behalf of the Petitioner.

4. PW3, in his evidence stated that he had gone to deposit Rs.1,15,000/- in the Bank, out of which Rs.50,000/- only had been returned to him in repayment of loan by the Respondent, 3-4 days earlier. He had added Rs.65,000/- from his own source. The witness further acknowledges that he was not in a position to identify that which of the notes were given to him by the Respondent and which were given by him from his own source. A total of 33 notes from his bundle of the currency notes have been found to be fake. It was not the evidence of PW3 that all the Rs.500/- currency notes alone have been given by the Respondent. On the contrary, PW3 stated that he was not in a position to which of the currency notes had been given to him by the Respondent.

5. We therefore find no infirmity in the order of acquittal calling for interference.

6. In the facts and circumstances of the case, the nature of evidence available in a case of circumstantial evidence, the Trial Court rightly concluded that suspicion howsoever strong could not take place of proof beyond reasonable doubt to sustain a conviction.

7. An order of acquittal is not to be lightly interfered with unless there has been complete mis-appreciation of evidence, wrong principles of criminal law have been applied and failure to interfere may lead to gross miscarriage of justice. The present petition does not fall in any of the said category.

8. We are constrained to observe that the Police performed its duty with extreme casualness bordering on negligence. Today itself in an

appeal against another acquittal, the allegations were that one Siddhnarth @ Natte colluded with the acquitted Respondent- Meena to kill the deceased. The latter, a lady, was made an accused but the Police did not make Siddhnarth @ Natte an accused. Similar is the position here. PW3 took a defence that Rs.50,000/- were given to him by the Respondent and the rest Rs.65,000/- from his own source. It is difficult for us to hold that the Police in the facts of the case by inadvertence did not investigate properly issues with regard to PW3. On the contrary, we constrained to observe that perhaps it may have been by design.

9. The petition is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE