

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 314 of 2015**

The State of Chhattisgarh through District Magistrate South Bastar
Dantewada

---- Petitioner

Versus

1. Dhamodhar Das @ Damu S/o Dasharam Aged About 29 Years R/o Rajur Tokapal, PS Parpa, District Bastar, At Present R/o Sulabh Shouchalaya, Kirandul.
2. Pukhraj Kachachhap S/o Chingdu Aged About 26 Years R/o Singarpur Camp Ward No. 15 Kirandul, PS Kirandul, District Dantewada Chhattisgarh.

---- Respondents

For Petitioner/ State : Shri B. Gopa Kumar, Deputy Advocate
General.

HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.

Order On Board**Per NAVIN SINHA, C.J.****09/07/2015**

1. We have heard Learned Counsel for the Petitioner/ State.
2. The present petition has been filed assailing the acquittal of the Respondents of the charge under Sections 302 and 394 of the Indian Penal Code in Sessions Trial No. 136 of 2012 by the Additional Sessions Judge, Fast Track Court, South Bastar Dantewada dated 29.1.2015.
3. Learned Counsel for the Petitioner submits that in a case of circumstantial evidence if there was a confession and recovery pursuant to that confession, the FSL report confirms presence of blood on the weapon of assault, merely because the Serologist report with regard to the blood matching that of the deceased may not be available, was not sufficient for acquittal.

4. We have considered the submissions. In a case of circumstantial evidence all the links in the chain of circumstances must be intertwined and connected with each other leading to the only inescapable conclusion for the guilt of the accused. If there is any break in the link of chain of circumstances, benefit of doubt has to be given to the accused.

5. There was no eyewitness to the occurrence. The body of the deceased was found lying on the road. The only material against the Petitioner was his confession leading to recovery of the weapon of assault stated to be blood stained. The FSL report confirms the presence of blood. Mere recovery of the weapon of assault on the confession of a co-accused, is not substantive evidence for conviction but may be corroborative evidence only. There has to be some evidence otherwise put forth by the prosecution to connect the accused with the occurrence and then with the weapon of assault. In cases of the present nature, it becomes important that the FSL report must also confirm that the group of blood found on the clothes of the deceased matched that on the weapon of assault. In absence of the Serologist report with regard to the two blood samples, we are not persuaded to interfere with an order of acquittal in a case based purely on circumstantial evidence, the only material being the alleged confession leading to recovery with an element of uncertainty in the facts of the case.

6. The petition is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE