

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M. P. No. 311 of 2015**

State of Chhattisgarh through Station House Officer, Police Station
Basantpur, district Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

1. Sawai @ Muna Joshi S/o Shri Prem Sukh Joshi, aged about 28 years
R/o village Saamrau, police station Lohawat, district Jodhpur
(Rajasthan), presently R/o. Ganjline, Rajnandgaon, district
Rajnandgaon, Chhattisgarh.
2. Shivkumar Sahu S/o Dayaram Sahu, aged about 39 years R/o village
Acholi, police station Dondi Lohara, district Rajnandgaon,
Chhattisgarh.

---- Respondents

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 23.2.2015 by the Sessions Judge, Rajnandgaon in Sessions Trial No. 32 of 2014 in a charge under Sections 489(B) and 489(C) of Indian Penal Code.

2. Learned Counsel for the Petitioner submits that the Respondent was in possession of one 1,000/- rupee counterfeit note and five 500/- rupee counterfeit notes. He tried to use the same by giving it to Nandkishore Dubey who was the Cashier at the shop for buying beer. The Cashier had suspected the notes to be fake leading to the institution of prosecution. The notes in question were sent to the Government Press,

Nasik, marked Exhibit P/22 and found to be fake. It was not in dispute from the confession and the seizure list that the notes were tendered by the Respondent to the Cashier. The acquittal was therefore unjustified.

3. We have considered the submission on behalf of the Petitioner and are not satisfied that the order for acquittal calls for any interference.

4. The admitted facts are that the Respondent went to the shop and tendered the notes in question to purchase bottles of beer. The cashier suspected it to be fake and therefore called the police. The Government Press, Nasik has confirmed the notes to be fake. But the Trial Judge after proper consideration of Sections 489(B) and 489(C) of IPC relying on judicial precedents held that mere possession of the notes will not suffice, it had to be established that the person who was in possession of the currency notes which turned out to be fake and who purported to use them as valid tender was having the knowledge or had reason to believe that it was forged or counterfeit and nonetheless used it. No evidence has been led by the prosecution in this regard that the Respondent was aware of the nature of the notes fake or counterfeit and nonetheless tendered it for use fully aware of their nature.

5. In view of the nature of the evidence led by the prosecution, which has not been able to establish the basic ingredients of the two sections we find no reason to interfere with the order of acquittal.

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 applied and failure to interfere may lead to gross miscarriage of justice. The present petition does not fall in any of the aforesaid categories.

8. The petition is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE