

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Acquittal Appeal No. 62 of 2015**

Manrakhan Yadav S/o Meghu Yadav Aged About 50 years R/o
Baladarpath, Police Station- Sanna, District- Jashpur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh through: The Station House Officer, Police Station- Bagicha, District- Jashpur, Chhattisgarh
2. Bhojram S/o Khiruram Aged About 25 Years Caste- Nagesiya, R/o Dumarpani, Police Station- Bagicha, District- Jashpur, Chhattisgarh
3. Sumitra Bai W/o Bhojram Aged About 18 Years Caste- Nagesiya, R/o Dumarpani, Police Station- Bagicha, District- Jashpur, Chhattisgarh
4. Mahesh Ram S/o Nan Ram Aged About 24 Years Caste- Nagesiya, R/o Dumarpani, Police Station- Bagicha, District- Jashpur, Chhattisgarh
5. Ishwar Ram @ Lendra S/o Khiruram Aged About 18 Years Caste- Nagesiya, R/o Dumarpani, Police Station- Bagicha, District- Jashpur, Chhattisgarh
6. Puran Ram S/o Sukhram Aged About 18 Years Caste- Nagesiya, R/o Dumarpani, Police Station- Bagicha, District- Jashpur, Chhattisgarh
7. Balkunwar Ram S/o Birjhuram Aged About 19 Years Caste- Nagesiya, R/o Dumarpani, Police Station- Bagicha, District- Jashpur, Chhattisgarh
8. Sunil Yadav S/o Chuneshwar Yadav Aged About 21 Years Caste- Yadav, R/o Baladarpath, Police Station- Sanna, District- Jashpur, Chhattisgarh

---- Respondents

For Appellant:- Shri JK Saxena, Advocate.

For Respondent No.1/State:- Smt Smita Ghai, PL.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board

Per Navin Sinha, Chief Justice

16/07/2015

1. The present appeal assails acquittal of the Respondents from the charge under Sections 302/34, 120-B and 201 IPC.

2. Learned Counsel for the Appellant submits that the deceased was last seen with Respondent No.8 and applying the last seen theory, the trial court erred in ordering acquittal. It was further submitted that on the confession of Respondent No.2, the tangi used in the assault has been recovered. The deceased was murdered by the Respondents in further of a conspiracy. No other ground has been urged before us.

3. The case of the prosecution is based on circumstantial evidence. There is no eye-witness to the occurrence. The confession and recovery of the 'tangi' is of no consequence in absence of any blood having been found on the same in the FSL report. The Trial Court has further come to the conclusion that there was no motive, an important factor in a case of circumstantial evidence. To invoke the last seen theory, there must be close proximity of time when the deceased was last seen with the accused and the recovery of the dead body. The deceased is stated to have left home with Respondent No.8 on 19.4.2014. The missing report was lodged on 29.4.2014 and the First Information Report on 11.5.2014 after the dead body was recovered abandoned. The suspicion therefore fell on Respondent No.8. The prosecution was unable to meet the defence of Respondent No.8 that the two had parted ways at Sanna on 19.4.2014 itself. There was no evidence that the mobile recovered was related to the occurrence. Furthermore, while the confession referred to was of Bhojram, the witness identified another Ishwar Ram, Respondent No.5 in the Court room. If the prosecution was unable to meet the defence that Respondent No.8 and the deceased had parted ways

on 19.4.2014 itself after they left home together earlier, the link in the chain of circumstances to invoke the last seen theory snaps.

4. We therefore find no reason to interfere with the order of acquittal.

5. The appeal is dismissed.

Sd/-
(Navin Shiha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE