

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 660 of 2015**

The State of Chhattisgarh, Through District Magistrate, Bijapur, Chhattisgarh.

---- Appellant**Versus**

1. Mangalu @ Modi S/o Gulodi Benjami, aged about 31 years.
2. Dilip Vekko S/o Sukalu Vekko aged about 36 years.

Both R/o village Tindodi, P.S. Bhairamgarh, District Bijapur, Chhattisgarh.

---- Respondents

For Appellant : 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, Chief Justice****28/09/2015**

1. The present application for leave to appeal is barred by 83 days.
2. The acquittal of the Respondents in Sessions Trial No. 10 of 2014 by the Additional Sessions Judge, South Bastar, Dantewada of the charge under Section 4 of the Explosive Substances Act, 1908 is assailed on the submission that the Trial Judge has grossly erred in holding that because the only witnesses available were police personnel, without corroboration by independent evidence, the conviction would not be justified. It is submitted that at times, no independent witness may be available. There are precedents to the effect that merely only because police witnesses may be available cannot be a ground simplicitor to disbelieve their evidence.
3. We have considered the submissions.

4. According to the allegations, the Respondents were allegedly apprehended with Tiffin Bomb, Detonators, wires etc. The Trial Judge noticed that there were no independent witness and all the witnesses were police personnel. The Trial Judge has not acquitted and granted benefit of doubt to the Respondents only for the reason that the prosecution witnesses were primarily police personnel. That is an aspect which has also been kept in mind considering all other facts and circumstances including nature of evidence led by the police personnel, inconsistencies in their evidence keeping in mind that they were not ordinary persons but police witnesses, the absence of any material placed by the prosecution of the Respondents having any antecedents, failure to record police statement of the seizure witnesses and absence of any independent witness from the nearby village. The Trial Judge in the entirety was satisfied that the prosecution had failed to prove its case beyond reasonable doubt.

5. The conclusions reached by the Trial Judge is a possible view and we therefore find no reason to entertain this application for leave to appeal.

6. Delay is condoned. The application for leave to appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE