

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P NO. 301 OF 2015**

- State of Chhattisgarh, Through: Station House Officer, Police Station Dongargarh, District Rajnandgaon (C.G.)

**... Applicant****Versus**

1. Suresh Pardhi, S/o Dhanush Pardhi, aged about 20 years,
2. Dhanush Pardhi, S/o Late Shiv Lal Pardhi, aged about 45 years,  
Respondents No. 1 & 2 R/o Village Puraina, Police Station Dongargarh, District Rajnandgaon (C.G.)

**... Respondents**


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| For Appellant   | : | Mr. B. Gopa Kumar, Dy. Advocate General. |
| For Respondents | : | Mr. Parag Kotecha, Advocate.             |

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**Hon'ble Shri Navin Sinha, Chief Justice****Hon'ble Shri Justice P. Sam Koshy****Order on Board****Per NAVIN SINHA, C.J.****07/09/2015**

1. The present appeal has been filed for leave to appeal against the order of acquittal dated 13.2.2015 of the charge under Section 302/34 IPC by the Additional Sessions Judge, Dongargarh, in Sessions Trial No. 22 of 2012.
2. Learned Counsel for the State submits that motive to kill the deceased existed is evident from the deposition of PW-5 Kusum Bai, who deposed that the Respondent had told her he was going to kill. Blood stains were found on the clothes of the Respondent in the FSL report for which he has offered no explanation.
3. Learned Counsel for the Respondents submits that mere presence of blood on clothes cannot be conclusive evidence by itself to sustain conviction in a case of circumstantial evidence. At best, it may

be a corroborative piece of evidence to be considered along with all other surrounding circumstances. The evidence collected under Section 27 of the Evidence Act by itself is not sufficient and even if the Respondent did not offer any explanation for the presence of blood on clothes, in the entirety of the evidence collected in a case of circumstantial evidence, the acquittal calls for no interference.

**4.** The motive alleged from the evidence of PW-5 Kusum Bai also does not stand established as the Trial Court has adequately discussed that the Respondent never named any person who was proposed to be killed. It cannot be said that motive stands established. The Trial Court has rightly suspected the police story of a clutch of hair allegedly found in the hands of the deceased suspected to be that of the Respondent but for which there was no forensic evidence available. Likewise, the Trial Court has also disbelieved the story of the footprint allegedly taken 12 days later without any evidence that it was of the Respondent and none other, having been established. The acquittal therefore calls for no interference.

**5.** We have considered the submissions on behalf of the parties.

**6.** The evidence collected under Section 27 of the Evidence Act may at best be corroborative material but cannot be substantive evidence by itself especially in a case of circumstantial evidence to found conviction. Motive, provided it is established in accordance with law, again may be a corroborative factor in a case of circumstantial evidence. The absence of any forensic evidence with regard to clutch of hair found in the hands of the deceased as being that of the Respondent coupled with the absence of any forensic evidence with regard to footprint stated to have

collected nearly 12 days later, we find no reason to interfere with the order of acquittal.

7. The application for leave to appeal is dismissed.

Sd/-  
**(Navin Sinha)**  
**Chief Justice**

Sd/-  
**(P. Sam Koshy)**  
**Judge**

/Sharad/