

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 517 of 2013**

The State of Chhattisgarh, Through the District Magistrate, District Korba,
Chhattisgarh.

---- Appellant**Versus**

1. Shahabuddin Ansari @ Kela @ Gulam Rasul @ Gulab S/o Ali Miyan Ansari,
Aged about 40 years, R/o village Bhuiya Chitro Basti, P.S. Topchachi, District
Dhanbad (Jharkhand)
2. Baburam Kahar @ Raju Kahar @ Babu Paswan S/o Ramchandar Ram Kahar,
Aged about 32 years, Village Pavapur, P.S. Pavapur, District Gajiyabad (UP) at
present Resident of Quarter No. D 19-185, BCCL Munidih, P.S. Munidih, District
Dhanbad (Jharkhand)
3. Anil Dewangan @ Guchchu, S/o Vijay Dewangan, Aged about 24 years, Village
Arjunda, P.S. Arjunda, District Durg, Chhattisgarh, at Present R/o Sector 6/471/A
Type Balco Nagar, P.S. Balco Nagar, District Korba, Chhattisgarh.
4. Satyaprakash Sahu S/o Rajkumar Sahu, Aged about 24 years, R/o Bhadesar
Dhaneli, P.S. & District Janjgir-Champa at present R/o Sector 5/328/A Type
Balco, PS Balco Nagar, District Korba, Chhattisgarh.

---- Respondents

For Appellant/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, Chief Justice****07/10/2015**

1. Heard Learned Counsel for the State.
2. The present application for leave to appeal assails order dated
24.5.2012 acquitting Respondents 1 to 3 of the charge under Explosive
Substances Act and Respondent No. 4 from the entire accusations.

3. Learned Counsel for the State submits that the Trial Court erred in acquitting Respondents 1 to 3 of the charge under Explosive Substances Act notwithstanding the fact that the materials with regard to ingredients of explosive device recovered from the place of occurrence had been placed before the Court. Respondent No. 4 was wrongly acquitted as he was accompanying on the second motor-cycle on which three other persons were travelling.

4. We have considered the submissions.

5. The allegations are of a quick operation of looting cash van carrying currency. The occurrence happened in a very short span of time and therefore, the police held test identification parade also in which Respondents No. 1 to 3 were identified leading to other materials also against them on which conviction was based. No material has been placed why Respondent No. 4 was not placed on test identification parade. The Trial Court has rightly observed that in the circumstances and the limited opportunity for identification, the Court identification after passage of time was not very reliable. With regard to mobile phone recovered from Respondent No. 4, no mobile forensics was done by the police. The Trial Court has declined to consider conviction under the Explosives Substances Act in absence of forensic report produced by the prosecution with regard to recovered items. There is no explanation why forensic report was not produced if seized materials were sent for forensic examination.

6. We find no reason to interfere. The application for leave to appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE