

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 843 of 2015

1. State Of Chhattisgarh Through : Station House Officer, Police Station Sitapur District Surguja, Chhattisgarh

---- Petitioner

Versus

1. Jugsai @ Thekka S/o Somaru @ Thutha Uraon Aged About 24 Years Occupation : Cultivation, R/o Village Harramaar - Khalpara, Police Station Sitapur, District Surguja Chhattisgarh.

---- Respondent

For Petitioner/State Ms. Madhu Nisha Singh, Panel Lawyer

**Hon'ble the Chief Justice Shri Navin Sinha &
Hon'ble Shri Justice Prashant Kumar Mishra**

Order On Board

16/10/2015

1. Present Application has been filed for leave to appeal questioning the acquittal of the Respondent under Section 302 of the Indian Penal Code ordered by the Sessions Judge, Sarguja in S.T. No.114/2014 dated 30-6-2015.
2. Learned counsel for the State submits that acquittal was not justified. PW-2, Vrinda, daughter-in-law of the deceased has stated in her police statement as also in Court deposition that

her mother-in-law before dying had disclosed the name of the Accused/Respondent as the assailant. Clothes and knife containing blood have been recovered from the Respondent on his confession.

3. We have considered the submissions on behalf of the State and are not inclined to interfere with the judgment of acquittal.
4. PW-1 Dhuneshwar, in the original report to the police immediately after occurrence did not name the Respondent, but lodged it against an unknown person. Subsequently, the name of the Respondent has transpired on suspicion because one month earlier there had been some altercation between PW-1 Dhuneshwar and the Respondent. PW-1 Dhuneshwar stated subsequently that he recognised the Respondent despite the fact that there was no electricity light burning in the brightness of the night, but he himself states that it was a rainy night. If the deceased died instantaneously and never disclosed the name of the Respondent to PW-1 Dhuneshwar, the question of PW-1 Dhuneshwar calling his wife PW-2, Vrinda and then disclosing the name of the Respondent to the latter by the deceased as the assailant seems to be an afterthought in view of the previous animosity between the Respondent and PW-1 Dhuneshwar. If the latter had identified the assailant, PW-1 would have named

him in his first police report itself. Any recovery of a knife and T-shirt with blood stains based on confession can be corroborative evidence only, but not substantive evidence for conviction.

5. In view of discussion contained in paragraph 31 of the impugned judgment also doubting the recovery of knife from the house of the Respondent, we find no reason to interfere with the judgment of acquittal.
6. The Application is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(Prashant Kumar Mishra)
Judge