

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 399 of 2007**

Dilip Singh Sidar S/o Ratansai Sidar age 50 years, caste Gonde, R/o village Tildega, the. Pathalgaon, District Jashpur.

---- Applicant**Versus**

1. Chitruram S/o Babulal Satnami age 36 years.
2. Prakash @ Omprakash S/o Ramsai @ Nanku Satnami, age 20 years.
3. Parshuram S/o Bishun Satnami age 19 years.
All R/o Village Thakurpodi, Thana Kapu, Distt.-Raigarh, Chhattisgarh.
4. State Of Chhattisgarh through: Station House Officer, P.S. Kapu, Distt.-Raigarh, Chhattisgarh.

---- Respondents

For Applicant	:	Shri Sanjay Agrawal, Advocate.
For Respondent No.4/ State	:	Shri Ashish Surana, Panel Lawyer.

Hon'ble Shri Justice Pritinker Diwaker**Hon'ble Shri Justice Chandra Bhushan Bajpai****Order On Board****Per P. Diwaker, J****22/01/2016**

1. The present revision has been filed by the complainant assailing the judgment and order dated 5.5.2007 passed by the Judicial Magistrate, First Class, Dhramjaigarh, District Raigarh, Chhattisgarh acquitting Respondents No.1, 2 and 3 of the offence under Sections 323 and 394 read with Section 34 of the Indian Penal Code (for short 'the Code').
2. The facts of the case are that on 27.4.2005, First Information Report (FIR), (Ex. P/21) was lodged by the Applicant alleging in it that on 26.4.2015 when he had gone to collect sand from the river, Respondents No.1, 2 and 3 had asked him to take certain boys alongwith him in his tractor and

thereafter they caused three to four lathi blows on his head. It is further alleged that Respondent No.1 – Chitruram snatched Rs.1,000/- and a watch from him and also caused injury to him. After investigation, charge-sheet has been filed against Respondents No.1, 2 and 3 and accordingly charges were framed under Sections 323 and 394 read with Section 34 of the IPC. So as to hold Respondents No.1, 2 and 3 guilty, the prosecution has examined as many as 13 witnesses. Statements of the accused persons were recorded in which they pleaded innocence and false implication. By the impugned judgment, the trial Court has acquitted Respondents No.1, 2 and 3. Hence, this revision was filed by the complainant.

3. Learned counsel for the Applicant submits that:

- (i) the trial Court has not properly appreciated the evidence adduced by the prosecution;
- (ii) the witnesses have duly supported the prosecution case but yet Respondents No.1, 2 and 3 have been acquitted; and
- (iii) the medical report of the complainant also supports the prosecution case.

4. Learned State counsel has duly assisted the Court. He further informs that the State has not preferred any appeal against the impugned order.

5. We have heard counsel for the parties and perused the record.

6. The Court below has disbelieved the statements of the prosecution witnesses by holding that they are the interested witnesses. It has been further observed by the trial Court that except for accused Chitruram the identification parade has not been conducted for other accused persons. It has been further observed by the trial Court that the witness Dilip has not

specifically deposed in the Court that all the accused assaulted him but in his diary statement he deposed that the accused Chitruram assaulted him.

7. Considering the material available on record, we are of the view that the Court below was justified in acquitting Respondents No.1, 2 and 3. Even otherwise, it is settled position of law that in a case of acquittal appeal or revision, if two views are possible and the Court below has taken one view in favour of the accused, normally the Courts does not interfere with the judgment.

8. In view of above, the instant revision has no substance. It is dismissed.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Chandra Bhushan Bajpai)
Judge