

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISCELLANEOUS PETITION NO. 24 OF 2016

State of Chhattisgarh, through District Magistrate, Rajnandgaon (C.G.)

... Appellant

Versus

Bhuwan Verma, S/o Bisaru Ram Verma, aged about 45 years, R/o Village Bagtarai, P.S. Lalbagh, District Rajnandgaon (C.G.)

... Respondent

For Appellant-State : Ms. Madhunisha Singh, Panel Lawyer.

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

16/02/2016

1. The present appeal arises from order dated 4.9.2015 acquitting the Respondent of the charges under Sections 294, 506 Part-II & 307/34 IPC, by the Sessions Judge, Rajnandgaon, in Sessions Trial No. 78 of 2014.
2. Learned Counsel for the State submits that considering the nature of injuries caused on the head, acquittal under Section 307 IPC was not justified and should have been ordered under Section 324 IPC, if not under Section 325 IPC.
3. We have considered the submission on behalf of the State.
4. An order of acquittal is not to be interfered with lightly unless it is grossly perverse, there has been serious misappreciation of evidence or non-consideration of material evidence and witnesses. If the view taken by the Trial Judge is a possible view, the Appellate Court will not interfere only because another view may also be possible. It is for the prosecution to lead the best evidence and prove the charges beyond reasonable doubt.

5. PW-9, Khorbahrin, mother of the injured, deposed that the Respondent assaulted inside the house. The Investigating Officer, PW-10, Shaukat Ali, has acknowledged that he did not record the statement of anyone at the place of occurrence. PW-8, Mukesh Kumar, cousin of the injured was not able to disclose any further names of those who were present at the spot when the occurrence took place. In the FIR, Exhibit P-5, the witness PW-8, Mukesh Kumar, has not mentioned that the occurrence took place inside the house. The Trial Judge concluded that if the occurrence took place outside the house there had to be some independent evidence. No explanation was forthcoming why the statement of any independent witness was not recorded. Considering the genesis of the occurrence, the availability of only related witnesses, no explanation for not examining any independent witness, the opinion of the Doctor that the injury caused was also possible if in a scuffle if the injured had fallen upon the wooden stump used for tethering cattle to finally conclude that there is no conclusive evidence for participation of the Respondent and that he was entitled to the benefit of doubt with regard to his participation. In the nature of the occurrence, a delay of nearly three hours in lodging the FIR was considered relevant. Having considered the discussion and reasoning of the Trial Judge it is difficult to hold that it is so absurd and impossible so as to warrant interference with the acquittal.

6. The application for grant of leave to appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge