

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 247 of 2015**

Lambalak Singh Bharadwaj, S/o Late Mahesh Ram Bharadwaj Aged About 45 Years R/o Village Achanakpur (Korbi), P.S. Baloda, Tahsil Baloda, District Janjgir Champa Chhattisgarh, Civil And Rev. Distt. Janjgir Champa Chhattisgarh.

---- Appellant**Versus**

1. Dilmohan Jain, S/o Sukhlal Jain Aged About 52 Years R/o Village Korvi, P.S. Baloda, District Janjgir Champa Chhattisgarh.
2. Vinod Kumar Bhardwaj S/o Dauwaram Aged About 35 Years R/o Village Korvi, P.S. Baloda, District Janjgir - Champa Chhattisgarh.
3. State Of Chhattisgarh, Through The Station House Officer, Police Station Baloda, District Janjgir - Champa Chhattisgarh.

-----Respondents

For Appellant:	Shri Vivek Shrivastava, Advocate.
For Respondent/State:	Shri UKS. Chandel, Panel Lawyer.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board**Per Navin Sinha, Chief Justice****27/1/2016**

1. The present application assails acquittal of the Respondents from the charge under Sections 302/34 and 120-B IPC dated 6.11.2015 by the Additional Sessions Judge, Janjgir in Sessions Trial No.14/2015.
2. Learned Counsel for the Appellant submits that the Trial Judge has not adequately appreciated the existence of previous enmity between Respondent No.1 and the deceased Eshwar. Respondent No.2 was the licensee from whose shop the liquor had been purchased. The medical report establishes presence of insecticide in the alcohol. The son of the deceased had deposed that the alcohol which he gave to his father had been purchased

from the shop of Respondent No.2.

3. We have heard Learned Counsel for the State also.

4. That death was caused by excess consumption of country liquor is not in dispute. Respondent No.2 was the licensee. The son of the deceased has acknowledged that the liquor bottle which he bought from Respondent No.2 was in a sealed condition. The Trial Judge has concluded that the insecticide bottle and syringe alleged to have been injected into the bottle was recovered on the confession of Respondent No.1 from the terrace of a school which was an open place accessible to all. We do not find any evidence on basis of which, the prosecution may have concluded that insecticide was injected into a sealed bottle, in fact there is no evidence whatsoever regarding the same. The seizure witnesses have turned hostile and have denied that any recovery was effected in their presence. The Trial Judge has also noticed that apart from the alcohol which the son of the deceased may have bought, the deceased also consumed alcohol given to him by one Brihaspati Bai, PW-9. No provision of the Excise Act was invoked and it does not appear that any sample testing was done of the country liquor available in the shop of Respondent No.2 to establish as a matter of fact that it was only the individual bottle consumed by the deceased in which insecticide had been injected especially when Brihaspati Bai, PW-9 had also been made a suspect in the beginning of the investigation.

5. In a case of circumstantial evidence, motive may be important but cannot be conclusive. The Trial Judge has disbelieved the allegations of previous enmity as motive in absence of any evidence with regard to the nature of dispute or any incidence/incidences regarding the same.

6. In the circumstances of the case, we find no infirmity with the

conclusion for acquittal as the prosecution cannot be said to have proved the case beyond reasonable doubt that the deceased died only on account of alcohol consumed after purchase from Respondent No.2 in conspiracy with Respondent No.1 and that death due to consumption of alcohol taken from Brihaspati Bai, PW-9 cannot be ruled out. No evidence whatsoever was led by the prosecution in support of any conspiracy between the Respondents to do away with the deceased by selling him alcohol laced with poison.

7. The Acquittal Appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE