

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 466 of 2010**

The State of Chhattisgarh

---- Appellant

Versus

1. Manmohan Singh S/o B. P. Singh, R/o Pratapganj Para, Jagdalpur, District Bastar, Chhattisgarh.
2. Suryabhan Singh S/o B. P. Singh, R/o Pratapganj Para, Jagdalpur, District Bastar, Chhattisgarh

---- Respondents

For Appellant/State : Shri Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****16/11/2016**

By virtue of the present acquittal appeal the State wants the reversal of the finding of 2nd Additional Sessions Judge, Jagdalpur in Sessions Trial No. 144/99 dated 19.12.2000 whereby the respondents in the instant case were acquitted from the charges under Section 307 read with 34 of IPC.

2. Counsel appearing for the State/appellant assails the impugned order on the ground that the Court below has not properly appreciated the evidence of prosecution witnesses who have been examined along with the injured person and in the absence of proper appreciation of evidence, the two respondents have been granted acquittal on sheer technicalities. He further submits that undisputedly the assault was made by accused Basanti Devi, the mother of the present respondents and that these two respondents were also present at the place of incident which has been lost sight by the Court below and therefore, the impugned order of acquittal

deserves to be set aside.

3. However, a perusal of the record clearly reflects that the witnesses though have stated that the respondents were standing there but none of the witnesses have stated of the respondents having committed any overt act or having played any role resulting in the injury caused to the injured Dharamshila Singh PW-6. The Court below has reached to a specific finding that except for the fact that the respondents were standing at the place of incident, there has been no evidence led on the part of the prosecution to establish the role played by the respondents so as to implicate them with the aid of Section 34 of IPC. In the light of this specific finding of the Court below of there being no evidence to show any overt act or any role to have been played by the respondents in commission of the said offence, no strong case has been made out to interfere with the impugned judgment of acquittal. The only piece of evidence which the State is relying upon is the presence of the respondents at the place of incident which in the opinion of this Court is not a strong piece of evidence by which the impugned order of acquittal which has been passed almost 16 years back can be set aside.

4. There are more than one reasons why this Court intends to dismiss the appeal preferred by the State; i) both the respondents at the time of commission of offence were young boys aged about 17-18 years, ii) the date of incident in the present case is 26.11.1998 and the date of judgment is 19.12.2000 i.e. almost 18 years from the date of incident and about 16 years from the date of the impugned order of acquittal was passed.

5. Thus, the present acquittal appeal being devoid of merit deserves to be and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**