

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No. 31 of 2016**

State Of Chhattisgarh Through : The Station House Officer, Police
Station Khursipar, District - Durg Chhattisgarh

---- **Petitioner****Versus**

Ravindra Gupta S/o Rajkishore Gupta Aged About 29 Years R/o Near
Durga Temple, Labour Colony, Chandani Chowk, Ekta Nagar, Zone-3,
Khursipar, Police Station Khursipar, District - Durg Chhattisgarh

-----**Respondent**

For Appellant/State:

Shri B. Gopa Kumar, Deputy
Advocate General.

For Respondent:

None.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Navin Sinha, Chief Justice****20/1/2016**

1. The present appeal assails acquittal of the Respondent from the charge under Sections 302 and 201 by the Sessions Judge, Durg dated 15.7.2015 in Sessions Trial No.233/2013.

2. Learned Counsel for the State submits that pursuant to the confession of the Respondent, blood stained towel was recovered. Merely because Serologist report regarding blood group was not available, acquittal was not justified.

3. We have considered the submissions. According to the allegations, the Petitioner and the deceased were last seen together at about 7.30 in the evening on 7.4.2013. He is alleged to have assaulted with his hands and fists and then dragged the body and later driven the truck dumper over it. The

body was recovered next morning i.e. 8.4.2013 at 5.30 a.m and a police report was registered against unknown driver.

4. Narmadiya Bai Koushik, PW-13 and Raj Kumar Gupta, PW-10 have both stated that the deceased and the Respondent were fighting at about 10.30 in the night when they were separated and both went away. Merely because the Respondent may have muttered that he shall not spare the deceased cannot leave to any conclusion of his being the assailant in a case of circumstantial evidence. The Forensic report of the tyre of the dumper truck did not report any blood on it. Devaki Vishwakarma, PW-15 has said that she could not identify the person whom she saw dragging the body of the deceased. It does not appear that the towel which was recovered on confession and projected to have blood stains has been proved by the prosecution as belonging to the deceased alone. In that view of the matter, it becomes irrelevant whether the blood on the towel was that of the deceased and belonging to the same group or not. The Serologist report therefore no relevance in the nature of evidence in the case.

5. We find not reason to grant leave to appeal.

6. The application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE