

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 356 of 2006**

- Leela Ram Sahu S/o Kashi Ram Sahu, aged about 30 years, R/o village Kushmi, P.S. - Berla, Dist : Durg (C.G.)

----Applicant**Versus**

1. State of Chhattisgarh Through - P.S. Berla, District : Durg (C.G.).
2. Daulat Ram S/o Shri Jumuk Sahu, aged about 46 years.
3. Devendra Kumar S/o Daulat Ram Sahu, aged about 24 years, Both R/o village Kushmi, P.S. Berla, District Durg (C.G.)

---- Respondents

For Applicant	:	Shri Anup Majumdar, Advocate
For State/R-1	:	Shri Rahul Tamaskar, P.L.
For Respondents 2 & 3	:	Shri P.P. Sahu and R.K. Pali, Advocates.

Hon'ble Shri Justice Pritinker Diwaker**Order On Board****22/11/2017**

01. The present Revision petition is directed against the judgment and order dated 18.04.2006 passed by the Judicial Magistrate First Class, Bemetara, District Durg (C.G.), in Criminal Case No.296/2005 acquitting respondent Nos. 2 and 3 of the charges under Sections 323/34, 324/34, 294 and 506 Part-II of IPC.

02. The prosecution story in brief is that on 13.07.2002, accused/respondents 2 and 3 caused injuries to Leela Ram (PW/1), Kanti Bai (PW/3) and Lata Bai (PW/4) on account of previous enmity. Injured PW/3, PW/4 and PW/1 were medically examined by Dr. Chatur Singh Manjhi (PW/10) vide Ex.P/10, P/11 and P/12 respectively, who

noticed three lacerated wounds of different size over parietal region & left lower 3rd lateral aspect of PW/3, two lacerated wounds and one abrasion of different size over right occipital region of scalp, right palm and left parietal region of PW/4 & one incised and lacerated wound of different size over right occipital and right parietal region of PW/1. As per medical reports, all the injuries were simple in nature.

03. On 13.07.2002, at the instance of PW/1, FIR (Ex.P/1) was registered against the accused/respondents 2, 3 and one Hemu Sahu under Sections 294, 506-B and 323/34 of IPC. After filing of the charge sheet, the trial Court framed the charges against accused/respondents 2 and 3 under Sections 324/34, 323/34, 294 and 506-B of IPC.

04. So as to hold the accused persons guilty, the prosecution examined as many as 12 witnesses. Statements of the accused/respondents 2 and 3 were also recorded under Section 313 of Cr.P.C. in which they denied the circumstances appearing against them in the prosecution case, pleaded innocence and false implication.

05. The trial Court after hearing counsel for the respective parties and considering the material available on record has acquitted the accused/respondents 2 and 3 as mentioned in para-1 of this judgment. Hence, this revision by the applicant/complainant.

06. Counsel for the applicant submits as under :-

- That the impugned judgment acquitting accused/respondents 2 and 3 is apparently wrong as the trial Court has not considered any evidence adduced by the prosecution.
- That the trial Court has acquitted the accused persons only on the ground of registration of a counter case and alleged previous enmity

between the complainant and accused persons.

- That the trial Court was first under obligation to consider the evidence adduced by the prosecution then it was at liberty to decide the case thereafter.

07. On the other hand, supporting the impugned judgment it has been argued by learned counsel for the accused/respondents 2 and 3 that the impugned judgment is in accordance with law and there is no infirmity in the same.

08. State counsel has duly assisted the Court.

09. Heard learned counsel for the parties and perused the material available on record.

10. Bare look of the judgment would reveal that the trial Court has not appreciated the evidence adduced by the prosecution and even not considered the medical reports (Ex.P/10, P/11 and P/12) available on record. The trial Court was under obligation to appreciate the evidence adduced on behalf of the prosecution and then to pass the judgment, and the accused persons would not have been acquitted merely on the ground of registration of counter case and previous enmity between the parties.

11. Considering the impugned judgment and the provisions of law, without further entering into merits of the case, the impugned judgment passed by the trial Court is set aside. The matter is remitted back to the trial Court for deciding the same after due appreciation of the evidence available on record and in accordance with law.

12. The Registry shall immediately send back the original record to the concerned trial Court for deciding the case on its own merit preferably

within three months from the first date of hearing of the case.

13. It is made clear that nothing has been observed on merit aspects of the case and it would be for the trial Court to decide the same after due appreciation of the evidence.

14. As the accused persons and the complainant are duly represented, they are directed to appear before the concerned Magistrate or the trial Court on **22nd January, 2018**.

Sd/-

(Pritinker Diwaker)

JUDGE