

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 201 of 2009**

- State of Chhattisgarh

---- Petitioner

Versus

1. Babulal, S/o Tijau Lodhi, aged about 40 years,
2. Bhikham, S/o Tijau Lodhi, aged about 22 years,
3. Mahendra, S/o Tijau Lodhi, aged about 14 years,

All the respondents are R/o village Dilapahari, Police Station Anusuchit Jati Kalyan, Rajnandgaon (C.G.)

---- Respondents

For Petitioner/State : Shri Ashish Shukla, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****08/11/2017**

1. Heard on application for leave to appeal.
2. The instant petition is filed against the acquittal order dated 27.03.2003, whereby the respondents have been acquitted of the charges under Sections 294 read with Section 34, 323 read with Section 34 & 506 (2) read with Section 34 of the I.P.C. and Section 3 (1) (10) of the Scheduled Tribes & Scheduled Castes (Prevention of Atrocities) Act, 1989.
3. As per the prosecution case, one Sunil Kumar Mahar, while coming back from Rajnandgaon, when he reached near Baiga Thodagi canal, the respondents, who were hiding themselves near by after seeing the

complainant, they came out and abused and assaulted the complainant by way of a screw driver on both of his eyes and back. It was further stated that they abused the complainant in the name of caste and when one jeep came there they fled away.

4. Perusal of the record and the statement of the Sunil Kumar (PW-1), who was the complainant would show that there has been some previous enmity existed between the complainant and the accused persons and it was alleged that one of the accused namely Babulal used to sale cannabis and having objected to it dispute was going on. The statement of Sunil Kumar (PW-1) would show that the previous enmity was admitted and it was also admitted that some case was pending in between the parties.
5. One of the eye-witness Naresh (PW-3) has not supported the fact that the complainant was assaulted by way of screw driver, therefore, Naresh (PW-3) has not supported the fact that the weapon as a screw driver was used and the same also not corroborated with the medical report (Ex. P-6) with respect to the assault by weapon. The complainant has further stated that Arun Kumar (PW-2) had went to leave him in the hospital in the car, to whom the complainant has disclosed that he had sustained injuries in an accident, therefore, the person Arun Kumar (PW-2), who immediately met the complainant, the complainant had not disclosed any fact about the incident and assault instead different story was narrated. What are the nature of the abuses have also not stated. Trial Court has observed that there has been material contradiction in the statement of complainant and eye witness consequently acquitted the accused.
6. Perusal of the statement of the witnesses, predominately the complainant Sunil Kumar (PW-1), Arun Kumar (PW-2) & Naresh (PW-3), would show

that contradictory statements were given, which has not been supported by each other. Taking into consideration such facts, this Court is not inclined to re-appreciate these facts & evidence on the ground that another inference could not have been drawn. No ground is made out to allow leave to appeal. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu