

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 518 of 2017

Order Reserved on : 27.07.2017

Order Passed on : 08.08.2017

1. Manoj Chaturvedi @ Gotar, S/o. Rambodh Chaturvedi, Aged About 29, Years, R/o. Bakka Ghoda, Ward No. 08, Main Market, Khongapani, Tahsil -Manendragarh, District Koriya Chhattisgarh.
2. Sunil Kumar Yadav, S/o. Rambali Yadav, Aged About 24 Years,
3. Sanjay Kumar Yadav, S/o. Rambali, Aged About 30 Years,
Both R/o. Badegaon, Police Station -Piparaich, District -Gorakhpur (U.P.)

---- Petitioners

Versus

State of Chhattisgarh, Through : The Station House Officer, Police Station -Jagrakhand, Special Police Station Under The Scheduled Castes and The Scheduled Tribes (Prevention Of Atrocities) Act, 1989, District Koriya Chhattisgarh.

-----Respondents

For Petitioners	: Mr. Kishore Bhaduri, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV ORDER

08/08/2017

1. It is submitted by the counsel for the petitioners, that petitioners are being prosecuted before the Court of Special Judge, under S.C. & S.T. (Prevention of Atrocities) Act, 1989 in Special S.T. No.15/2015. Trial Court has framed charges against the

petitioners vide order dated 08.03.2017 for the offence U/s. 147/149, 342/149, 506 Part-II read with Section 149, 307/34, 323/34 (Three counts) of Indian Penal Code and Section 3 (1) (10) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocity) Act. Being aggrieved from this order, this revision has been preferred.

2. It is submitted by the counsel for the petitioners that there is no iota of evidence for framing of charge under Section 307 of Indian Penal Code even the contents of material of prosecution, it is very clearly stated by the witnesses that injured Vikrant was assaulted by use of kicks and fists and no such injury was caused to him which can be considered as fatal. Merely on the statement of witness that the accused persons intended to cause death of Vikrant, charge under Section 307 of Indian Penal Code can not be framed.
3. Counsel for the respondent opposed the petition and submitted that there is sufficient material for framing of charge under Section 307 of Indian Penal Code against the petitioners. It is further submitted that use of any article for causing injuries to a person is not material, if it is prima-facie made out that intention of the accused persons was to cause death, in that case charge can be framed.
4. I have heard the arguments advanced by the learned counsel for the parties and perused the documents on record.

5. The incident that took place on 19.07.2015 was reported and according to which, complainant and others were looking for their domestic pigs on the spot of incident, when petitioners arrived on the spot used abusive words, threatened them and then assaulted and gave beating to them with kicks and fists. One statement added by the informant that petitioners assaulted and gave beating to injured Vikrant with intention to cause his death.
6. The medico legal examination conducted on 19.07.2015 mentions few injuries on the body of injured - Vikrant and opinion of the doctor that severity of the injury could be made out only after x-ray examination. The admit card of the injured Vikrant is also produced in which it is clearly stated that no external injuries is seen and the result of examination is also noted that no intra cranial brain injury was seen. It is true that injured has to under go some treatment. MLC report of the rest of the injured persons demonstrate that rest of the injured have suffered simple injuries.
7. On a query being made by the investigating officer, it was reported that condition of injured Vikrant was serious and he might have died, if no treatment were given to him. This medical opinion is not such, which can be relied upon to come to a conclusion that injuries caused to the injured Vikrant was fatal. It is required to be clearly mentioned by the doctor while opining that injury caused to a person would have in natural course resulted in death, unless intervened by medical treatment.

8. Mere statement is simply inculpatory and the medical report is also can not be considered as a prima-facie evidence that death of injured Vikrant was intended in this case. Hence for this reason, the revision petition is allowed at the motion stage. The order of framing charge by the trial Court against the petitioners is hereby set-aside. Trial Court is directed to reconsider on the framing of charge on the basis of observation made in this order.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram