

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 830 of 2001**

The State of Chhattisgarh ---Appellant

Vs

Milan, aged about 37 years, s/o. Sonachand Satnami, r/o. PS
Bemetara Distt. Durg (CG).

- Respondent.

For Appellant/State : Mr. Arvind Dubey, Panel Lawyer
For respondent : Ms. Sharmila Singhai, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****13-04-2018**

1. Challenge in this acquittal appeal is to the judgment dated 22-1-2001 passed by the Additional Chief Judicial Magistrate, Bemetara, District Durg in Criminal Case No. 221 of 1997 wherein the trial Court has acquitted the respondent for commission of offence punishable under Sections 325 and 323 of IPC for voluntarily causing grievous hurt to one Ricky Das, who is village Kotwar of village Dhara on 2-3-1997 at about 7.00 a.m.
2. In the present case, respondent was charge-sheeted for voluntarily causing grievous hurt to village Kotwar namely Ricky Das. The matter was reported to Police Station Bemetara. After completion of investigation, charge sheet was filed against the respondent. The respondent

pleaded innocence and thereafter the trial was conducted. After examination of the witnesses, statement of the respondent was recorded under Section 313 of the Code. After hearing the parties, the trial Court acquitted the respondent as aforementioned.

3. Learned counsel for the State would submit that the trial Court gave undue weightage to minor contradictions in the evidence of prosecution witnesses contrary to law and came to wrong conclusion. He would further submit that the trial Court failed to appreciate the evidence in its true and correct perspective and recorded a judgment of acquittal on the basis of conjectures and surmises, therefore, the judgment of the trial Court be set aside.
4. On the other hand, learned counsel for the respondent would submit that the finding arrived at by the trial Court is based on proper marshaling of the evidence adduced by the prosecution and same is not liable to be disturbed while invoking the jurisdiction of the appeal.
5. I have heard learned counsel for the parties and perused the record.
6. PW/1 Ricky Das admitted in his cross-examination (para 3) that he is having enmity with the respondent. He deposed that Manrakhan and Faghuram were present at

the time of incident but Manrakhan did not support the version of the victim while Faghuram was not examined. PW/8 Dr. G.S. Thakur, who is Radiologist has deposed that x-ray of the victim was taken by one technician but the said technician is not examined before the trial Court. The trial Court evaluated the entire evidence and it could not be said that the finding arrived at by the trial Court is not based on relevant facts or the trial Court has based its finding on irrelevant facts or extraneous material.

7. True it is that there may be one view regarding assault by the respondent to the victim, but the prosecution is always under obligation to prove its case beyond shadow of doubt. The trial Court doubted on prosecution evidence after marshaling of evidence with various angles and unless perversity shown on the part of the trial Court, the finding cannot be disturbed on the basis that another view is also possible. It is settled principles of law that if two views are possible, the view favourable to the accused should be accepted, therefore, this Court is not inclined to disturb the finding recorded by the trial Court.
8. Considering all the facts and circumstances of the case, I am of the view that the finding of the trial Court is not liable to be interfered while invoking jurisdiction of the appeal.

9. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge

Raju