

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 86 of 2010**

- State Of Chhattisgarh, through the District Magistrate, District Korea (C.G.)

---- Petitioner**Versus**

1. Chhotelal, S/o Devnandan Choudhary, aged about 38 years, R/o Chhappandafai, Khongapani, PS Jhagarakhand, District Korea (C.G.)
2. Parvez, S/o Chhotelal Choudhary, R/o Chhappandafai, Khongapani, PS Jhagarakhand, District Korea (C.G.)

---- Respondents

For Petitioner-State
For Respondents

Ms. Madhunisha Singh, PL
Ms. Sharmila Singhai, Advocate

Hon'ble Justice Shri Prashant Kumar Mishra**Hon'ble Justice Shri Ram Prasanna Sharma****Order On Board****19/01/2018**

1. The present acquittal appeal has been preferred by the State challenging the acquittal of the accused persons from the charges under Section 302/34 IPC.
2. On the date and time of incident, Umesh, another son of respondent No.1 Chhotelal, was playing at the village playground. At that time, deceased Ramsumiran was also present at the playground in an inebriated condition. Ramsumiran was chasing the students with a stone in his hand and was

asking them to leave the playground. At this point of time, the respondent No.1 and his wife reached playground and tried to persuade Ramsumiran to desist from obstructing the children from playing. The respondent No.1 simultaneously started assaulting Ramsumiran and thereafter the respondent No.2 also reached there and then both the accused persons assaulted the deceased, for which he sustained injuries and died due to intra cranial hemorrhage, which was result of head injury sustained by him as mentioned in the postmortem report (Ex-P-7) proved by Dr. S. N. Gupta (PW-10).

3. The prosecution case rested on the eye witness account rendered by PW-1 Shobhnath, PW-5 Bundibai, PW-6 Gorelal, PW-7 Sonva Kumar and PW-11 Vikas Kumar Choudhary. While acquitting the accused of the charges, the trial Court has discussed the evidence of the above stated witnesses from paragraphs 14 to 19. It has been discussed and observed by the trial Judge that Shobhnath (PW-1) has admitted in para 10 of his statement that he has not seen the accused persons beating his son, as at that time, he was in his house. In respect of Bundibai (PW-5), it is observed that she has admitted in her cross examination that when she reached the playground, her son was already lying dead. In respect of Gorelal (PW-6), it has been observed that there are several contradictions, omissions and embellishments in his court statement and further that his deposition is not supported by commensurate injuries mentioned in the postmortem report. For eye witness Sonva Kumar (PW-7), the trial Judge has discussed that he has admitted in para 12 of

his cross examination that when he reached the playground, his brother was already dead. He has further admitted in para 19 of his cross examination that when he and his father reached the playground, Ramsumiran was already dead and that he has not seen the accused persons assaulting the deceased.

4. The last eye witness Vikas Kumar Choudhary (PW-11) has also admitted in para 6 of his statement that when Ramsumiran was chasing the children in an inebriated condition, he went inside his house out of fear and that he came out only after the incident was over and at that time, Ramsumiran was dead.
5. We have seen the record, particularly the statement of eye witnesses. Upon studied scrutiny of the entire evidence, we have not found that the discussion made by the trial Judge about the statement of the above stated eye witnesses is either perverse because of misreading of their evidence or culling out some incorrect inference or conclusion about their statement, which they have not stated in the Court.
6. In view of the above, we have found that the judgment of acquittal rendered by the trial Court does not suffer from any such infirmity or perversity warranting interference by this Court in this acquittal appeal. The appeal deserves to be and is hereby dismissed.

Sd/-
Judge
Prashant Kumar Mishra

Sd/-
Judge
Ram Prasanna Sharma