

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 305 of 2010**

- State Of Chhattisgarh, Through the District Magistrate, District Bilaspur (CG)

---- Petitioner**Versus**

1. Gaurav Rai S/o Prahalad Rai, Aged about 21 years
 2. Ravishankar Rai, S/o Chunni Lal Rai, Aged about 48 years,
 3. Prahalad Rai, S/o Chunni Lal Rai, aged about 50 years,
 4. Smt. Chandralata Rai, W/o Prahalad Rai, aged about 45 years,
- R/o Village Marwahi, PS Marwahi, District Bilaspur (CG)

---- Respondent

For State/appellant
For Respondents

Mr. Bhaskar Pyasi, Panel Lawyer
Mr. Ashutosh Mishra, Advocate on behalf of
Mr. Mateen Siddique, Advocate

DB.: Hon'ble Mr. Justice Prashant Kumar Mishra &**Hon'ble Mrs. Justice Vimla Singh Kapoor****Order On Board By****Prashant Kumar Mishra, J.****17/7/2018**

1. Heard.
2. The trial Court has acquitted the accused persons of the charges under Sections 333, 307, 332/34 and 224 of IPC, which was

registered against them on the allegation that at about 22:30 hours, on 16.6.2007, they have attempted on the life of PW-8 SS Raj and caused grievous injuries to Kushal Prasad, Shivprasad & Jagmohan Panna and have deterred them in discharge of their official duties.

3. According to the prosecution, the concerned Police received information that accused Gaurav Rai, against whom the offence under Sections 279 and 337 of IPC has been registered at PS Marwahi, is available near Kanta Dhaba, therefore, PW-8 SS Raj, Incharge of the concerned Police Station along with Constable Kushal Kaushik went near Kanta Dhaba to arrest Gaurav Rai and bring him to the Police Station. However, on the way, when SS Raj and Kushal Kaushik were bringing accused Gaurav Rai to the Police Station, other accused persons intercepted them and starting beating the police personnels. Soon thereafter, Shiv Prasad and Jagmohan, both Constables, also reached the spot but they too were assaulted by the accused persons.
4. The trial Court has acquitted the accused persons on the finding that there was no warrant of arrest against Gaurav Rai, therefore, PW-8 S.S. Raj was not under any legal obligation to arrest and bring him to the Police Station. It is also recorded by the trial Court that the accused persons have also sustained injuries, which are more serious in nature than the injuries sustained by S.S. Raj and three other persons and further that the case of the prosecution is not supported by any independent witnesses.

5. We have gone through the statements of PW-8 S.S. Raj and independent witnesses PW-4 Lakhan Lal, PW-6 Lal Gopal Jaiswal and PW-10 Lalman Chandra. These three independent witnesses have not supported the prosecution.
6. PW-8 S.S. Raj has admitted that at the time of the incident neither he nor Kushal Kaushik were wearing police uniform meaning thereby that these two injured police personnels were not on duty at the time of the incident. This is further fortified by the fact that SS Raj was not carrying the wireless set or service revolver.
7. Even without the uniform also a police personnel can be on duty but usually in such cases, the police personnels carry the service revolver with them. In addition to the above, It is also to be seen that Gaurav Rai was an accused for committing traffic violations as he was charged for committing offence under Sections 279 and 337 of IPC only and was thus, not a dreaded criminal and otherwise also, Gaurav Rai is a bus operator.
8. The accused persons have proved the injuries sustained by them by producing the injury reports Ex.D/6 to D/12, which goes to substantiate that in whatever manner the incident had taken place, the present accused persons have also sustained injuries, which are more or less of the same nature to those sustained by the injured persons.
9. Upon studied scrutiny of the evidence, we are of the firm opinion that in the state of evidence on record, the finding

recorded by the trial Court does not suffer from any illegality or perversity or irrationality.

10. There is no substance in the acquittal appeal, it deserves to be and is hereby dismissed.

Sd/-

Sd/-

Judge

Judge

(Prashant Kumar Mishra)

(Vimla Singh Kapoor)

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