

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 7 of 2015**

- Shrikant Bunkar S/o Shri Ramnarayan Bunkar Aged About 23 Years R/o Shubham Vihar, Near Om Zone, Mangla, Police Station Civil Lines, Teh. Bilaspur, Civil And Rev. Distt. Bilaspur C.G.

---- Appellant

Versus

- Kamal Choubey S/o Shri C.L. Choubey Aged About 31 Years R/o Shubham Vihar, Near Om Zone, Mangla, Police Station Civil Lines, Teh. Bilaspur, Civil And Rev. Distt. Bilaspur C.G.

---- Respondent

For Appellant : Shri R.S.Marhas, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Rajani Dubey****Order On Board****02/11/2018**

Learned counsel for the appellant argued that despite there being clinching oral evidence on record with regard to administration of threat and setting ablaze the dwelling house, learned Trial Court has acquitted the respondent. According to learned counsel for the appellant, the complainant – Shrikant Bunkar (PW4) has clearly deposed that the accused – Kamal Chaubey has set his house on fire and reached to his house and found that lock was open and articles were lying burnt and when he was informed that this was done by the respondent / accused which is supported from the evidence of Dauram Chandrawanshi (PW7) who is the eye witness of the incident, wherein the respondent / Kamal came in hurling abuses, went up to the terrace of Shashi Pandey and Shrikant Bunkar and then after five minutes, he saw smoke coming out from the house.

2. We have gone through the impugned judgment of acquittal and records.

3. We find that though number of witnesses have been examined by the prosecution, learned Trial Court has disbelieved the evidence of Dauram Chandrawanshi (PW7) because this witness has admitted that because of darkness in the night, it was not clearly visible as to who set the house of the complainant on fire and the learned Trial Court has also taken into consideration that according to FIR, it is Pappu @ Ramesh Rawal who informed the complainant / victim regarding the incident. Evidence of other prosecution witnesses have been disbelieved because of contradictions and omissions which have been found to be material so as to create a doubt with the prosecution story. Learned Trial Court has meticulously examined the material on record to reach to the conclusion which cannot be said to be suffered from penalty or patent illegality.

The view which has been taken by the learned Trial Court is plausible one. Interference with the judgment of the Trial Court would be warranted only when the judgment suffers from patent illegality, perversity or where any clinching evidence have been ignored or where the findings are arrived at in ignorance of the material evidence on record. None of these grounds are available. Therefore, we are inclined to dismiss the appeal. The appeal is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge