

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR.M.P. No. 373 of 2018**

State Of Chhattisgarh Through The Police Station Ramanujganj,
District Balrampur Ramanujganj Chhattisgarh.

---- Petitioner**Versus**

Dubi Singh S/o Devdhari Singh Aged About 32 Years Occupation
Agriculture, R/o Village Indarpurkhori, Machuwadamar, P. S.
Ramanujganj, District Balrampur Ramanujganj Chhattisgarh.

---- Respondent

For Petitioner/State : Shri Ravindra Agrawal, Govt Advocate

Hon'ble Shri Pritinker Diwaker and
Hon'ble Shri Sanjay Agrawal, J.J.
Order On Board

09.04.2018**Per Pritinker Diwaker, J.**

1. The present petition has been filed under Section 378(3) of the Code of Criminal Procedure 1973 (for short, 'the Cr.P.C.'), seeking leave to appeal, against the judgment and order dated 06.10.2017 acquitting respondent.

2. By the impugned judgment dated 06.10.2017 passed in Sessions Trial No. R 58/2016 by Additional Sessions Judge to the Court of 2nd Additional Judge, Ramanujganj (C.G.), respondent/accused Dubi Singh has been acquitted of the offence under Section 307 of IPC.

3. As per prosecution case, on 20.04.2016 FIR (Ex.P.1) was lodged by Devdhari Singh (PW-1), father of the respondent/accused alleging in it that on that date i.e. 20.04.2016, he was assaulted by respondent/accused with axe, when the

complainant had gone to his *Mahua* tree for keeping guard on the same, after having dinner. As a result of which, he sustained injuries over index finger, middle finger and ring finger as also sustained lacerated wound over the left chest.

4. Based on this FIR (Ex.P.1) offence under Section 307 of IPC was registered against the respondent/accused. Thereafter injured Devdhari Singh has been sent to Community Health Center, Ramanujganj for medical examination. After due investigation the accused has been taken into custody. The trial Court has framed charge under Section 307 of IPC against the respondent/accused.

5. So as to hold the respondent guilty, the prosecution has examined as many as 10 witnesses. Statement of respondent was recorded under Section 313 Cr.P.C., in which, he denied all the circumstances appearing against him and pleaded innocence and false implication.

6. By the impugned judgment, the trial Court acquitted respondent/accused on the ground that the prosecution has failed to prove its case beyond reasonable doubt.

7. We have heard learned counsel for the State and perused the record carefully.

8. From the record it is apparent that the respondent/accused is the son of the complainant (PW-1), who has not supported the prosecution case. He has nowhere made any allegation against the respondent/accused. Even there is no other evidence against

the respondent/accused showing his involvement in commission of offence.

9. Considering all the facts and circumstances and material available on record, the trial Court has come to the conclusion that no case is made out against the respondent/accused as the prosecution has failed to prove its case beyond reasonable doubt and has acquitted the respondent/accused of the charge under Section 307 of IPC.

10. After considering the material available on record as well as the elaborate judgment impugned passed by the Court below and being very much conscious of the existing legal position that in an appeal against acquittal if two views are possible on the basis of the evidence led by the prosecution and the trial Court taking one view favoured the accused, reversion of the findings of acquittal by the appellate Court taking the other possible view into consideration, is not permissible in law, this Court is of the opinion that the judgment impugned acquitting the respondent/accused of the offence under Section 307 of IPC is just and proper and does not call for any interference. Accordingly, the leave as sought for by the petitioner for registration of appeal against the judgment of acquittal is hereby refused.

Petition is accordingly dismissed at the admission stage.

Sd/-

Sd/-

(Pritinker Diwaker)
Judge

(Sanjay Agrawal)
Judge