

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 741 of 2018

- State Of Chhattisgarh Through- The In-charge Police Station Sitagaon, District- Rajnandgaon, Chhattisgarh

---- Appellant

Versus

- Patiram Kowachi S/o Shobharam Kowachi Aged About 26 Years R/o- Gahangatta, P.S. Aundhi, District- Rajnandgaon (CG)

---- Respondent

For Appellant : Shri Adil Minhaj, Panel Lawyer.

Hon'ble the Chief Justice
Hon'ble Shri Justice Pritinker Diwaker, JJ

Judgement

Per P. Diwaker, J

12/07/2018

1. Heard on I.A. No.1/18, application for condonation of delay in filing this appeal.
2. For the reasons assigned in the application, it is allowed and the delay in filing this appeal is condoned.
3. Heard on admission.
4. This petition has been filed by the State seeking leave to appeal under Section 378 (3) of the Code of Criminal Procedure, 1973 for assailing the judgment of acquittal dated 29.8.2017 passed by the Sessions Judge, Rajnandgaon in ST No.41/2016 acquitting the accused/respondent of the offence under Section 294, 506 (Part II) & 307 of the IPC.
5. As per prosecution case, on 23.3.2016 FIR (Ex.P-6) was lodged by Sagram Hidko (PW-1) alleging in it that on 21.3.2016 he was assaulted by the appellant with axe as a result of which he sustained injuries on his

head. Based on this FIR, offence under Sections 294, 506 II & 324 of IPC was registered against the respondent herein. Injured was medically examined vide Ex.P-11A by Dr. Mohan Tikam (PW-13) and he noticed one chop wound of 1½ x ½ x 1½ inch in size over left frontal region. After completing the investigation, charge sheet was filed by the police under Sections 294, 506 (Part II) & 324 of IPC. The trial Court has framed the charge under Sections Sections 294, 506 (Part II) & 307 of IPC.

6. So as to hold the accused/respondent guilty, the prosecution has examined 15 witnesses. Statement of accused/respondent was also recorded under Section 313 of CrPC in which he denied the circumstances appearing against him in the prosecution case, pleaded innocence and false implication. The trial Court after hearing the counsel for the respective parties and considering the material available on record has acquitted the accused/respondent of all the charges.
7. Counsel for the State submits that the trial Court has erred in law in acquitting the accused/respondent even when there is ample evidence against him. \
8. We have heard learned State Counsel and perused the material available on record.
9. In the present case injured complainant (PW-1) did not support the prosecution case and turned hostile by stating that he had sustained the injury accidentally while the accused/respondent was cutting the wood. Since the injured (PW-1) himself has turned hostile, the prosecution can never prove that injuries caused to the injured in the present case was a result of an act of accused/respondent. In such a situation, there was no evidence before the trial Court on the basis of which the respondent could have been linked with the alleged offence. The trial Court was, thus, justified on the basis of material before it, to record an order of acquittal. Even it is implicit in this judicial process that if two views of the evidence are reasonably possible, the finding of acquittal ought not to be disturbed.
10. Accordingly, the petition preferred by the State has no substance, the same is liable to be dismissed and is hereby dismissed at the admission stage itself leading to refusal to leave to appeal as sought for by the State.

11. It is, however, advisable that before preferring appeal against the judgment of acquittal the State Government should look into the legal aspects whether infact it can be assailed in the higher Court or not. Flooding of unnecessary litigations should be avoided because they do not only waste precious judicial time but also waste the public money.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Pritinker Diwaker)
Judge

roshan/-