

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 774 of 2018**

- State of Chhattisgarh Through - Police Station Khairagarh, District Rajnandgaon (C.G.)

---- Petitioner**Versus**

1. Hari Yadav S/o Panchu Yadav, aged about ___ years, R/o Akarjan, Police Station Khairagarh, District Rajnandgaon (C.G.)
2. Deenu Yadav, S/o Sukhdas, aged about ___ years, R/o Diprapara, Chhuikhadan, Near Jila Sahkari Bank Chhuikhadan, District Rajnandgaon (C.G.)

---- Respondents

For Petitioner/State	:	Shri Rahul Tamaskar, P.L.
For Respondents	:	None

Hon'ble Shri Justice Pritinker Diwaker**Hon'ble Shri Justice Gautam Chourdiya****Judgment on Board****Per Pritinker Diwaker, J****25/07/2018**

1. Heard on I.A.No.01/2018, application seeking condonation of delay in filing the present petition.
2. For the reasons mentioned in the application, the same is allowed and delay in filing the petition is condoned.
3. Also heard on admission.
4. The present petition has been filed by the State seeking leave to appeal under Section 378 (3) of the code of Criminal Procedure, 1973 assailing the judgment and order dated 25.11.2017 passed by Additional Sessions Judge, Khairagarh (C.G.) in Sessions Trial No.01/2014

acquitting the accused/respondents of the charge under Section 489 (B) and (C) read with section 34 of IPC.

5. As per the prosecution case, on 10.03.2013 the accused/respondents had gone to the liquor shop of one Vijay Gupta and gave one fake currency note of Rs.500/- denomination for purchasing liquor. On the report lodged by complainant, the case was registered against accused/respondents under Section 489 (C)/34 IPC and expert report from Currency Note Press, Nasik was also called wherein the said note was found to be counterfeit. After filing of the charge sheet, the trial Judge has framed the charge under Section 489 (B) (C) read with section 34 IPC against the accused/respondents.
6. So as to hold the accused/respondents guilty, the prosecution has examined 03 witnesses. Statements of the accused/respondents were also recorded under Section 313 of Cr.P.C. in which they denied the circumstances appearing against them in the prosecution case, pleaded innocence and false implication.
7. The trial Court after hearing counsel for the respective parties and considering the material available on record has acquitted the accused/respondents as mentioned in para-1 of this judgment. Hence, this petition for leave to appeal.
8. Counsel for the State submits that the trial Court has erred in law in acquitting the accused/respondents even when there is ample evidence against them.
9. We have heard learned counsel for the parties and perused the material available on record.
10. In the instant case, all the three important witnesses namely Chaita Ram (PW/1), Samaru (PW/2) and Shyama (PW/3) have not supported the prosecution case and turned hostile. It is thus apparent that the prosecution

has utterly failed to adduce any evidence showing involvement of accused/respondents in commission of offence. Considering the nature of evidence adduced by the prosecution, the trial Court has come to the conclusion that no offence is made out against accused/respondents and they have been acquitted of the charges levelled against them. We find no illegality in the order impugned acquitting the respondents particularly when there is a settled legal position that if on the basis of record two conclusions can be arrived at, the one favouring the accused has to be preferred. Even otherwise, the prosecution thus has utterly failed in proving its case beyond reasonable doubt and the trial Court has been fully justified in recording the finding of acquittal which is based on proper appreciation of evidence available on record. Furthermore, in case of appeal against the acquittal the scope is very limited and interference can only be made if finding recorded by the trial Court is highly perverse or arrived at by ignoring the relevant material and considering the irrelevant ones. In the present case, no such circumstance is there warranting interference by this Court.

11. Accordingly, the CRMP preferred by the State/applicant is bereft of any substance and, therefore, the same is liable to be and is hereby dismissed at the admission stage itself leading to refusal of leave to appeal as sought for by the State.

Sd/-

(Pritinker Diwaker)
JUDGE

Sd/-

(Gautam Chourdiya)
JUDGE