

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 66 of 2013

(Arising out of judgment dated 12-7-2013 passed in ST No.32/2012 by the Sessions Judge, Kabirdham)

1. Anjora Bai W/o Shri Nihal Singh Aged About 32 Years Occu. Labour, R/o Village- Pandrikhar, P.S. Kukdur, Civil And Rev. Distt. Kabirdham, C.G.

---- Appellant

Versus

1. The State Of Chhattisgarh Through The Station House Officer, P.S. Kukdur, Distt. Kabirdham C.G.
2. Krishna Kumar @ Krishna S/o Naval Singh Gond Aged About 30 Years
3. Dilip Kumar S/o Bajur Singh Dhurve Aged About 31 Years

Both R/o Village Pandrikhar, P.S. Kukdur, Civil And Rev. Distt. Kabirdham, C.G.

---- Respondent

For Appellant
For Respondent/State

Shri S.K. Mishra, Advocate
Shri Rajendra Tripathi, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Ram Prasanna Sharma

Judgment on Board

By

Prashant Kumar Mishra, J.

04/01/2018

1. Challenge in this appeal is to the judgment of acquittal rendered by the trial Court acquitting the accused persons from the charge under Section 302/34 of the Indian Penal Code.
2. The accused persons were tried for committing the murder of deceased Suraj Kumar, aged about 4½ years.

3. As per the prosecution, the appellant Anjora Bai, mother of the deceased, lodged a *dehatinalisi* to the effect that her husband had gone to work in the bore drilling vehicle about 7-8 months back, therefore, she resides with her sons namely; Suresh, Naresh & Suraj and daughter Surekha. They retired for bed at about 9.00 pm on 31-3-2012. At about 3.00 am in the morning she proceeded to collect the *Mahua* fruits and at that time Suraj also insisted for accompanying her, but she did not take the deceased with her. The deceased and Surekha remained in the house. When she came back at about 5.00 am she witnessed the dead body of Suraj lying on the floor having two cut injuries over his neck.
4. Admittedly, there is no eye witness to the crime and the case of the of prosecution is based on circumstantial evidence. The circumstantial evidence is in the nature of recovery of chura from the accused Krishna and pursuant to his memorandum statement bloodstained clothes of Krishna, which he was wearing at the time of incident, were also recovered. Chura has been recovered from an open place and the said article was already witnessed by ASI Santosh Thakur (PW-10). During FSL examination neither the chura nor the clothes were found to contain human blood much less blood belonging to the same group of the deceased.
5. The present appears to be a case of no evidence against the accused persons. Merely because the appellant had some animosity with the accused Krishna concerning loan transaction and the surety thereof, the same would not furnish a ground for

convicting the accused persons. Even otherwise, previous animosity is a double edged sword, which can work either way. On the one hand, it may be a motive for committing the murder, but in other way the same may also provide reason for false implication.

6. Considering the nature of evidence available the trial Court has rightly acquitted the accused persons. The judgment of acquittal is based on proper appreciation of evidence available on record, therefore, it does not call for any interference.
7. As a sequel, the instant appeal, *sans* merit, is liable to be and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Ram Prasanna Sharma

Gowri