

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 113 of 2015**

- Baby Bai W/o Late Motilal Rajwade Aged About 33 Years R/o Kachhar, Patelpara, Police Station Sonhat, Civil And Rev. Distt. Korea Chhattisgarh.

---- Petitioner**Versus**

1. Rajendra Prajapati S/o Shriram Prajapati Aged About 33 Years
2. Laksheshwar Prajapati S/o Sajjanram Prajapati Aged About 25 Years

Res. 1 & 2 are R/o Village Kachhar, Police Station Sonhat, Distt. Korea Chhattisgarh.

3. State Of Chhattisgarh Through District Magistrate, Korea, Distt. Korea Chhattisgarh.

---- Respondents

For Appellant
For Respondent-State

Shri Awadh Tripathi, Advocate
Shri Rajendra Tripathi, PL

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

Order On Board**05/01/2018**

1. The appellant would assail the impugned judgment of acquittal, whereby the trial Court has acquitted the accused persons from the charges under Section 302 and 302/34 of IPC for allegedly committing murder of deceased Motilal.

2. The deceased was murdered at Village Kachhar at 10:30 pm on 14.06.2014. In the absence of any eye witness account of the incident, the investigation proceeded on the basis of circumstantial evidence. After 3 days of incident, the accused persons were interrogated wherein they made disclosure statement, pursuant to which blood stained knife, vest (Baniyan), barmuda pant and regular pant were recovered from the accused persons. In FSL examination, the articles recovered from the accused persons were found to be carrying blood stains, but there is no report of the serological examination confirming that the blood was of human origin.
3. The trial Court eventually found that the prosecution has not been able to establish the case against the accused persons.
4. It is argued that the witness to the memorandum statement and consequent recovery having supported the prosecution and further for the reason that there was motive for accused persons to commit the crime because the deceased was having illicit affair with the wife of accused Rajendra, the trial Court should have convicted the accused persons.
5. Having heard learned counsel for the appellant and on perusal of the record, we are not satisfied that the present is a fit case for admission and interference with the impugned judgment for the reason that there is no direct evidence against the accused persons. The circumstantial evidence is not in the nature of last seen together or oral dying declaration. Even the seizure of knife and clothes alleged to be blood stained would not help the

prosecution, because the articles were not sent for serological examination to establish that the blood stains found on those articles were of human origin.

6. It is settled law that merely on the basis of seizure of some articles including the weapon used in the offence, a conviction cannot be sustained unless there is strong corroborative evidence to complete the chain of circumstantial evidence so as to eliminate possibility of any other person having committed the offence.
7. In appeal against acquittal, High Court is entitled to interfere with the judgment of the trial Court only when it suffers from patent perversity leading to gross miscarriage of justice. In the case at hand, the trial Court has considered all relevant evidence adduced by the prosecution to conclude that it has failed to prove the guilt of the accused beyond reasonable doubt. The marshaling of evidence is in accordance with the quality of evidence available on record. We have also seen the entire evidence and are satisfied that the findings recorded by the trial Court are not perverse.
8. Consequently, the acquittal appeal has no substance, it deserves to be and is hereby dismissed.

Sd/-
Judge
Prashant Kumar Mishra

Sd/-
Judge
Ram Prasanna Sharma