

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 201 of 2014

(Arising out of judgment dated 28-8-2014 passed in ST No.23/2011 by the Additional Sessions Judge, Khairagarh, District Rajnandgaon)

1. Chandrahas Verma S/o . Tikam Verma Aged About 25 Years R/o. Vill. Bhula Tola, P.S. Chhuikhadan, Distt. Rajnandgaon (C.G.)

---- Appellant

Versus

1. Ashwani @ Pappu Wasnik S/o. Tiju Ram Wasnik Aged About 25 Years R/o. Vill. Bhulatola, P.S. Chhuikhadan, Distt. Rajnandgaon (C.G.)
2. Sawant Meshram S/o . Chintaram Meshram Aged About 32 Years R/o. Vill. Birutola, P.S. Chhuikhadan, Distt. Rajnandgaon (C.G.)
3. The State Of C.G. Through the Police Station Chhuikhadan, Distt. Rajnandgaon (C.G.)

---- Respondent

For Appellant
For Respondent/State

Shri Rakesh Pandey, 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. Appellant is the brother of the deceased Kishore Verma, who was allegedly murdered by the accused persons about 13 days prior to 13-11-2010 when his dead body was found in the forest area of village Baikatori.
2. While acquitting the accused persons the trial Court has observed in para 19 that there is no eyewitness to the crime and the case of the prosecution is based on circumstantial evidence.

3. In so far as the evidence of last seen together is concerned, Rajni (PW-9), the mother of the deceased, would make such statement, however, in her previous statement to the police under Section 161 of the Cr.P.C., she had not named the accused as the persons with whom the deceased had gone on the date after which he was found missing. The trial Court has rightly disbelieved the statements of Rajni (PW-9) and Bhuneshwari (PW-8) who has also not disclosed this information to the police in her case diary statement.
4. The other piece of evidence is about recovery of Micro Max mobile from the accused Sawant, however, the identification of the said mobile set was conducted in presence of the police and by that time other mobile sets were not mixed with the seized mobile and instead only one piece of mobile set was put to identification.
5. There is no evidence also to the effect that the IMEI number of the mobile set was the same in which the SIM number belonging to the deceased was operated neither any call details have been obtained to connect the accused persons with the deceased through mobile calls immediately prior to the incident.
6. In view of the above, the trial Court has rightly found that the prosecution has failed to prove the charge of murder against 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