

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2195 of 2018

- State Of Chhattisgarh Through Police Station Ramanujganj, District Balrampur-Ramanujganj Chhattisgarh

---- Petitioner

Versus

1. Sanjay Minj S/o Late Shri Ramkhilawan Minj, Aged About 26 Years Occupation Agriculture R/o Village Saraswati Shishu Mandir Schoolpara Ward No.10 Imlipara, Police Station Balrampur Ramanujganj, District Balrampur Ramanujganj Chhattisgarh
2. Pappu @ Pushpendra Lakra, S/o Birendra @Bira Lakra Aged About 21 Years Occupation Labour R/o Village Schoolpara Ward No. 51 Turridih, police Station Balrampur District - Balrampur Ramanujganj Chhattisgarh
3. Bhimnath Minj S/o Shri Manbodh Minj Aged About 22 Years Occupation Labour R/o Village Karambhadar Turridih, Police Station Balrampur, district Balrampur -Ramanujganj Chhattisgarh

---- Respondents

For State / Petitioner : Ms. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

06/12/2018

There is an application (I.A.No.1) for condonation of delay in filing this petition.

Upon due consideration of the grounds urged in the application, the same is allowed.

Delay is condoned.

1. Heard on application for grant of leave to appeal.

Learned State counsel submits that the learned Court below committed gross illegality and perversity in acquitting the respondents even though the prosecution came out with emphatic evidence not only of the identification but also of recovery of fire arm and live cartridges and the report that the bullet fired and the cartridges recovered were actually fired from the seized fire arm.

2. We have gone through the impugned judgment and evidence placed before us.

3. Learned Trial Court has disbelieved the evidence with regard to identification because both Amit Soni (PW1) and Rupesh Soni (PW2) have admitted in their cross examination that it was dark in the night and those who had come to rob the victim were wearing helmet and therefore, they could not be identified. On this basis, the learned Trial Court has found identification of the accused doubtful.

The independent witness of memorandum witness and seizure witness have turned hostile and not supported the case of the prosecution. There is also no clinching evidence of looted articles from any person much less from the accused. Keeping in view the aforesaid failure on the part of the prosecution to prove its case beyond reasonable doubt, the respondent / accused have been acquitted. Therefore, we do not find any material to interfere with the judgment of acquittal. The application for grant of leave to appeal is rejected. The petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge