

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 496 of 2009

Shashikant Patra S/o. Shri Ban Bihari Patra, aged about 58 years,
R/o. Village Toshgaon, P.S. Basana, District Mahasamund, CG.

---- Applicant

Versus

1. State of Chhattisgarh through Police Station Basana, District Mahasamund, CG.
2. Narsingh Rana, S/o. Shri Baleshwar Rana, aged about 50 years,
R/o. Village Toshgaon, P.S. Basana, District Mahasamund, CG.

---- Respondents

For Applicant	: Shri Akshay Uppal, Advocate
For Respondent/State	: Shri Raghvendra Verma, GA
For Respondent No. 2	: Shri Varunendra Mishra, Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

07/05/2019

This is a revision against the judgment of acquittal dated 20.03.2009 passed in Sessions Trial No. 01/2009 of the respondent/accused of the charge under Section 324 IPC.

2. Facts of the case, in short, are that on 14.10.2008 at about 6 PM when the applicant/complainant was returning home, the respondent/accused met him and started abusing him all of a sudden. When the applicant opposed the abuses hurled by respondent/accused, he assaulted him with the help of knife and caused injuries on his left arm. The case of the prosecution further goes to show that the applicant snatched the knife from the respondent/accused and fell down on the ground and in the process respondent/accused also suffered injuries for which a report was lodged by him against the applicant under Section 307 IPC. However, after considering the material on record learned Court below did not find any ground to convict the respondent/accused and thus acquitted him of the charge leveled against him under Section 324 IPC.

3. While acquitting the respondent/accused, learned trial Judge referring to the evidence of the doctor who medically examined the applicant herein, has recorded a finding that at the relevant time the applicant was also under the influence of liquor and further that the seizure of knife was made from his possession. He also recorded a finding that apart from the applicant no independent witness has supported the case of the prosecution. One of the findings recorded by learned Court below referring to the statement of the doctor is that the injuries suffered by the applicant might have been as a result of fall. Even the applicant herein has stated that he himself and the respondent/accused both fell on the ground and therefore, the opinion of the doctor which subsequently has been made a basis for acquittal by the Court below gets fortified. Though there is nothing on record to show the injuries suffered by the respondent/accused yet the FIR lodged by him against the applicant herein goes to show that he too must have suffered injuries in the incident. Thus, the sum and substance of the conclusion drawn in the judgment impugned is that the prosecution has not succeeded in proving its case beyond all reasonable doubt that it is the respondent/accused who had caused injuries to the applicant herein and thus acquitted him of the charge under Section 324 IPC. No infirmity or illegality appears to be there in the judgment impugned. Even otherwise the legal position holding the field is that in a case where two possible views surface, the one favouring the accused has to be taken into account. This is what the Court below seems to have done.

4. Thus the judgment impugned being fully justified and based on proper assessment of the fact and evidence on record needs to be maintained. It is held accordingly.

5. Revision thus fails and dismissed as such.

Sd/-
(Vimla Singh Kapoor)
Judge