

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 103 of 2009**

- Shankar Sharma S/o Late Amar Singh Sharma, Age 40 years, R/o Jai Narayan Rise Mill, Lal Bahadur Sastri Ward, Bhatapara, Distt.-Raipur, C.G.

---- Petitioner**Versus**

1. Gyan Singh Sablani S/o Late Shri Hopa Singh Sablani, Age 50 years
2. Amit Balani, S/o Shankar Lal Balani, Age 28 years
3. Vikas Balani, S/o Narayan Balani, Age 27 years
4. Vikram Sablani, S/o Gyan Singh Sablani, Age 29 years
5. Ranjeet Davani, S/o Revachand Devani, Age 34 years
6. Sushil Sablani, S/o Gyan Singh Sablani, Age 29 years
7. Amit Hablani, S/o Manohar lal Havlani, Age 28 years
8. Jogender Singh Davani, S/o Revachand Davani, Age 32 years

Respondent No.1, 4 & 6 R/o Munsli Ismayle Ward, Bhatapara &
Respondent No. 2, 3, 5, 7, R/o Mata Devalya Ward, Bhatapara &
Respondent No.8 R/o at present Kasdol, Old Address Station
Ward, Bhatapara, PS Bhatapara, District Raipur (CG)

9. State of CG Through PS Bhatapara, District Raipur (CG)

---- Respondent

For Applicant
For Respondents 1 to 8

Respondent/State

Mr. Neeraj Mehta, Advocate
Mr. Devershi Thakur,
Advocate
Mr. Vikash Shrivastava, Panel
Lawyer

**DB.:Hon'ble Mr. Prashant Kumar Mishra, Judge &
Hon'ble Mrs. Rajani Dubey, Judge.**

Order On Board By

Prashant Kumar Mishra, J.

13/5/2019

1. Heard.
2. The informant has moved this criminal revision challenging the acquittal of the accused persons from the charges under Sections 294, 506B, 324, 458, 427, 436/34 of IPC.
3. The incident happened at 12:00 midnight on 8.5.2006 in the premises of J.N. Rice Mill, Bhatapara. PW-7 Shankar Sharma (informant) lodged the FIR naming accused Vicky Sablani, Vikas and Amit and several other persons, alleging that they committed trespass by forcefully entering into the premises of J.N. Rice Mill and while making filthy abuse, they caused injuries to PW-3 Kamal Jaiswal and put on fire two motorcycles, one belonging to himself and the other belonging to another employee namely Shankar, who works in the Rice Mill.
4. The trial Court has acquitted the accused persons mainly on appreciation of evidence finding that the prosecution evidence as unfolded from the statements adduced by PW-1 Upasna Bai, PW-2 Dr. Kumar Jagrati Agarwal, PW-3 Kamal Jaiswal, PW-4 Dilip Chhabadiya, PW-5 Manish Banjamin, PW-6 Ajit Kumar, PW-7 Shankar Sharma, PW-8 Janakram Dhruv, PW-9 Basant Bragu and PW-10 Ramkumar Vaishnav, does not make out the crime

against the accused persons.

5. We have seen the record particularly the depositions of witnesses recorded during trial.
6. There are three important witnesses, whose evidence is worth mentioning to consider the substance in the prosecution case. They are PW-1 Upasna Bai, PW-3 Kamal Jaiswal, who were present within the premises of J.N. Rice Mill at the time of occurrence and PW-7 Shankar Sharma , who works as *Munshi* in the said Rice Mill and had reached the Rice Mill during the occurrence.
7. While PW-1 Upasna Bai would not name any of the accused persons and neither witnessed the incident at the time when the two motorcycles were put on fire, the other witness PW-3 Kamal Jaiswal refused to identify any of the accused persons who were sent for trial. He also states that he did not receive any injury on account of the said incident. This witness has not stated anything about putting his motorcycle on fire. Thus, now we are left with the statement of PW-7 Shankar Sharma to consider whether the trial Court has failed to render correct judgment on the basis of sole evidence of this witness.
8. Shankar Sharma (PW-7) being the *Munim* of the Rice Mill, where the incident occurred, his statement needs to be scrutinised carefully. Admittedly, this witness was not present within the Rice Mill Premises when the accused persons allegedly forcibly entered the Rice Mill. He came after sometime and entered the

premises along with Dilip Chhabadiya (PW-4). When Dilip Chhabadiya tried to persuade and convince the accused persons, this witness entered the premises and saw that the office is open and the articles are scattered. He derived information about putting the motorcycle on fire from PW-3 Kamal Jaiswal, however, Kamal has himself denied the incident. Although this witness names Vicky Sablani, Vikas and Amit , but he also admits that one Police Station is situated at a distance of 50 steps from the place of occurrence yet he did not inform the incident to the nearest Police Station to lodge the FIR but went to the other Police Station, which is located at a distance of 3 Km from the place of occurrence. He would also admit that near the premises of JN Rice Mill, there are other premises of Ashish Enterprises, one Dal Mill, Narayan Udhyog Pashu Aahar, Shivani Dharmkanta, Tyre Repairing Shop and other shops of Ballu Sahu and Tikaram Sahu, but none of the persons from these business premises have been examined. Similarly, this witness speaks about entering the subject premises for the first time with Dilip Chhabadiya but the said Dilip Chhabadiya examined as PW-4 has not supported the prosecution, as he fails to identify any of the accused persons.

9. On the basis of the above evidence, we are satisfied that the trial Court has taken a view, which is one of the possible views in the matter and the same is not perverse.
10. It is the settled law that if two views are possible and the trial Court has taken one of the view while acquitting the accused,

the same need not be interfered while exercising the revisional jurisdiction or jurisdiction in appeal against acquittal.

11. The criminal revision fails and it is accordingly dismissed.

Sd/-

(Prashant Kumar Mishra)

Judge

Sd/-

(Rajani Dubey)

Judge

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