

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRR No. 93 of 2008

1. Tanweer Ahmad Khan, S/o Abdul Latif, aged about 21 years, R/o Near Booking Office, Hatkachora, Jagdalpur, Dist. Bastar, CG.

---- Petitioner

Versus

1. Mohan Rao, S/o Late Radhakishan Rao, aged about 32 years, Occupation Motorcycle Mechanic, R/o Hatkachora, Thana Bodhghat (Jagdalpur), Dist. Bastar, CG.
2. Buchchu @ Vijay, S/o Jagbandhu, aged about 27 years, R/o Hatkachora, Thana Bodhghat (Jagdalpur), Dist. Bastar, CG.
3. State of Chhattisgarh, through Thana City Kotwali, Jagdalpur, Dist. Bastar, CG.

---- Respondent

For Petitioner	Shri Alok Dewangan, Advocate
For Respondents No.1 & 2	Shri Keshav Dewangan, Advocate
For Respondent/State	Shri Avinash Choubey, Panel Lawyer

Hon'ble Shri Prashant Kumar Mishra, J.Hon'ble Shri Gautam Chourdiya, J.Order on BoardByPrashant Kumar Mishra, J.22-11-2019

1. Heard.

2. This revision is directed against the trial Court's judgment of acquittal whereby the accused persons have been acquitted of the charges under Sections 341, 364 read with Section 34 and 302 read with Section 34 of the Indian Penal Code.
3. Petitioner herein namely; Tanweer Ahmad Khan is the brother of Emroj (since deceased), who was murdered near Sargi forest of village Dhurguda, District Bastar on 29-5-2005.
4. Case of the prosecution is based on the evidence of three important witnesses namely; PW-9 Tanweer Ahmad, PW-12 Jethuram & PW-13 Sukdu @ Sukru. PW-9 Tanweer Ahmad is a witness to the oral dying declaration, as according to him on receiving information from his uncle (Maama) namely; Harun he went to the spot and found the deceased lying injured in a pool of blood. On enquiry, the deceased informed that the present accused persons have assaulted him.
5. As per the prosecution case, when the deceased informed about the incident to PW-9 Tanweer Ahmad, two other witnesses PW-12 Jethuram & PW-13 Sukdu @ Sukru were also present, however, PW-12 Jethuram stated in para 9 of his statement that the deceased was unconscious, therefore, not in a position to speak. PW-13 Sukdu @ Sukru has turned hostile and has gone to the extent of saying that he is not aware as to for what reason he has been summoned to give evidence in the present case.
6. There are material contradictions and omissions in the statement of PW-9 Tanweer Ahmad, apart from the fact that the other witness i.e. PW-12 Jethuram, who was present on

the spot when PW-9 Tanweer Ahmad reached there, has clearly stated that the deceased was unconscious.

7. Scope of interference with the judgment of acquittal in Criminal Revision is very limited, therefore, there being no perversity in the finding recorded by the trial Court while disbelieving the statement of PW-9 Tanweer Ahmad, we have found that the present Criminal Revision has no substance.
8. In the result, the instant CRR, *sans* merit, is liable to be and is hereby dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri

Sd/-

(Gautam Chourdiya)
Judge