

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 376 of 2013

- State of Chhattisgarh Through - Police Post Rampur, Police Station Kotwali, Korba, District Korba C.G.

---- Applicant

Versus

1. Tingu @ Basant Chouhan S/o Budhram Singh Chouhan Aged About 24 Years R/o Sitamani Sanjay Nagar Naharpara, Korba (House of Naresh Sweeper) Police Station Kotwali, District Korba C.G.
2. Babulal Chouhan S/o Aditya Ram Chouhan Aged About 45 Years, R/o Madhuwa, Police Station Akaltara, District Janjgir Champa C.G. Presently R/o At Manikpur, Qtr. No C.H.- 1D1, (Hal Manikpur Jhopdi) Police Station Kotwali Korba, District Korba C.G.
3. Raju Chouhan S/o Ramayan Chouhan Aged About 27 Years, R/o Lindih, P.S. Kartala, District Korba C.G. (Presently R/o At Imli Duggu Korba, Police Station Kotwali, District Korba C.G.

---- Respondents

For Applicant-State :- Shri R.S. Bhaghel, Dy. A.G.

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By
Prashant Kumar Mishra, J

14/08/2019

1. Heard.
2. On due consideration, delay of 94 days in filing the present Cr.M.P. is condoned. Accordingly, I.A. No.1 is allowed.
3. The trial Court has acquitted the accused of the charges under Sections 460, 302/34, 396 and 120(B) of IPC.
4. The accused persons have allegedly conspired to commit dacoity in the house of deceased and commit her murder if she resists. In execution of the conspiracy, the accused persons entered the house of the deceased during intervening night of 12 – 13 July, 2010, and while committing dacoity the deceased resisted, therefore, she was done to death.
5. Case of the prosecution rested on circumstantial evidence in form of the memorandum statements of the accused and the consequent recovery. PW-2, Amul Sharma, and PW-3, Abdul Rashid are witnesses to the Memorandum Statements Exhibit P4, P6 and P8 and Seizure Memos Exhibit P5, P7 and P9. Both the witnesses have turned hostile and have not supported the case of prosecution. Although PW-2, Amul Sharma, admits that some articles were recovered from

accused Raju Chouhan but in the next breath he says that recovery was made at the instance of Police and Raju Chouhan had not informed the Police about the articles. He denies that Raju Chouhan had given the memorandum statement Exhibit P6. The trial Court has also observed the discrepancies in the above memorandum statements and seizure memos. Witness to the identification PW-7 Ramgopal Kurre have also not supported the prosecution.

6. Considering the quality of evidence adduced by the prosecution the view taken by the trial Court while acquitting the accused appears to be one possible view in the matter. Therefore, merely because there is some doubt about the complicity of the accused persons in commission of crime, this Court is not entitled to take a different view in the matter.
7. There is no substance in the prayer for grant of leave to appeal, therefore, the same deserves to be and is hereby dismissed.
8. Accordingly, Cr.M.P. is dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge