

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No.250 of 2010**

- State of Chhattisgarh, through: Station House Officer, P. S. Balco Nagar, District Korba

---- Appellant**Versus**

1. Upan Singh, S/o Jatan Singh Kanwar, Aged About 22 Years
2. Budhwar Singh, S/o Dokri Kanward, aged about 55 years
3. Dinesh, S/o Chamra Singh, aged about 20 years
4. Dilip, S/o Santram Vishwakarma, aged about 18 years
5. Jailal, S/o Samar Singh Kanwar, aged about 32 years
6. Manohar, S/o Nanhi Singh Kanwar, aged about 26 years

(All residents of Jambahar P. S. Balco Nagar, Tahsil and Distt. Korba)

---- Respondents

For Appellant

Shri Neeraj Mehta, PL

For Respondent Nos.1, 3, 4 & 5

Ms. Laxmin Tondey, Advocate
on behalf of Ms. Nirupama Bajpai**Hon'ble Justice Shri Prashant Kumar Mishra****Hon'ble Justice Shri Gautam Chourdiya****Order On Board by Shri Prashant Kumar Mishra****15/11/2019**

1. This acquittal appeal is directed against the judgment rendered by the Trial Court acquitting the respondent No.1 Upan Singh, respondent No.2 Budhwar Singh, respondent No.3 Dinesh, respondent No.4 Dilip, respondent No.5 Jailal and respondent No.6 Manohar of the charges

under Sections 148, 302/34 and 323/34 of IPC.

2. All 12 accused were sent for trial for committing murder of deceased Sanat Kumar Shriwas. PW-1 Akhil Pandey lodged FIR to the effect that about 15 unknown persons committed maarpeet after brief altercation during a picnic. The incident happened when they reached near Sonpuri Tiraha while returning from the picnic. PW-1 Akhil Pandey, PW-2 Ashok Kumar, PW-5 Omprakash Sahu and PW-6 Virendra Singh also sustained injuries.
3. In course of trial, Akhil Pandey deposed that the accused Nandlal @ Nandu stopped them along with 10-12 persons and he assaulted deceased Sanat Kumar Shriwas over his head. This witness was also assaulted, due to which he became unconscious. He identified some of the accused including Nandlal. Other witnesses namely PW-2 Ashok Kumar, PW-4 Prem Das, PW-5 Omprakash Sahu and PW-6 Virendra Singh have also deposed in the same line as has been deposed by PW-1 Akhil Pandey.
4. Based on the evidence on record, the Trial Court convicted the accused Nandlal, Mohan, Gautam Singh, Dilip, Gorelal and Rajendra Singh and acquitted the respondent No.1 Upan Singh, respondent No.2 Budhwar Singh, respondent No.3 Dinesh, respondent No.5 Jailal and respondent No.6 Manohar. Respondent No.4 Dilip, S/o Santram has infact been convicted by the Trial Court, therefore, the present appeal has wrongly been filed against him. Similarly, Santosh Singh, S/o Budhwar Singh has been acquitted by the Trial Court, but no acquittal appeal has been filed against him.

5. Be that as it may, the convicted accused had preferred CRA No.1352/2003 and CRA No.77/2004 before this Court, which has been decided by the common judgment rendered by the Division Bench on 26.07.2016. In the said appeal, the Coordinate Bench has appreciated the entire evidence to hold that only Nandlal is responsible for assaulting the deceased. Other accused convicted by the Trial Court have been acquitted by the High Court.
6. We have also perused the evidence adduced by the prosecution, particularly the statement of PW-1 Akhil Pandey, PW-2 Ashok Kumar, PW-4 Prem Das, PW-5 Omprakash Sahu and PW-6 Virendra Singh. Having appreciated the evidence, it appears that it was Nandlal who assaulted the deceased Sanat Kumar Shriwas over his head and other persons have not taken part in assaulting the deceased. It is precisely for this reason this Court while deciding CRA No.1352/2003 and CRA No.77/2004 has concluded that only Nandlal is guilty of committing murder.
7. The finding recorded by the Trial Court acquitting the present respondent No.1 Upan Singh, respondent No.2 Budhwar Singh, respondent No.3 Dinesh, respondent No.5 Jailal and respondent No.6 Manohar does not appear to be perverse.
8. The acquittal appeal has no substance. It deserves to be and is hereby dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge