

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 444 of 2018

State Of Chhattisgarh Through Police Station Shankargarh, District Balrampur
Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Petitioner

Versus

1. Dildar Hussain Aged About 45 Years R/o Village Shardapur, P. S. Chalgali, District Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh
2. Samsuddin Ansari S/o Jakira Ansari Aged About 40 Years R/o Village Bhagwatpur, P. S. Shankargarh, District Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh
3. Smt. Prabha Ajiji, W/o Samsuddin Ansari Aged About 37 Years R/o Village Bhagwatpur, P. S. Shankargarh, District Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh
4. Jagdish Vishwakarma S/o Manul Vishwakarma R/o Village Bhagwatpur, P. S. Shankargarh, District Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Respondents

For Appellant/State : Shri K.K. Singh, Govt. Advocate

**D.B. : Hon'ble Mr. Justice Manindra Mohan Shrivastava &
Hon'ble Mrs. Justice Rajani Dubey**

Order On Board

21/01/2019

1. Considering that records are available, ignoring default, we have heard learned counsel for the State/petitioner on the prayer for grant of leave to appeal in so far as acquittal of the respondents for alleged commission of offence under section 302 IPC is concerned.
2. Learned counsel for the State would argue that the victim had sustained injury on his head which resulted in subdural hemorrhage. Though there was an operation done and after treatment, the victim was discharged from the hospital on 06.02.2010 in a fit condition, later on, the victim developed certain complications due to septicemia and succumbed to death. He would argue that Dr. Shiv Narayan Manjhi (PW19) also stated that injury

which was caused, in ordinary course of nature, was sufficient to cause death. Therefore, the learned trial Court ought to have convicted the respondents under Section 302 IPC also and the finding that the respondents are only liable for conviction of offence under section 307 IPC suffers from patent illegality.

3. We have gone through the impugned judgment and the evidence available on record.
4. The evidence of the prosecution shows that after the incident happened on 27.01.2010, victim Rajeev sustained injury on his head and he was admitted in the hospital and a surgery was also performed. Dr. Sunil Sharma (PW7) has deposed that on 29.01.2010, surgery was performed and due to improvement in condition, Rajeev was discharged on 06.02.2010. At that time, he was fully conscious and performing routine work. In the cross-examination, he stated that blood clot was removed. Amit Kumar Singh (PW-17), brother of Rajeev has stated that his brother has developed sepsis, due to which, there was skin infection. He was admitted in the hospital where he remained admitted for more than a month and then died. He has admitted that after he was treated at Apollo hospital, he had become fit and had come back at home.
5. In the background of the aforesaid evidence of the victim having sustained injury, admitted in the hospital, surgery performed, he having been declared fit and then discharged from the hospital and after sometime, re-admission in the hospital because of septicemia, the learned trial Court has disbelieved the version of Dr. Shiv Narayan Manjhi (PW19) that the injury, in ordinary course of nature, was sufficient to cause death. The respondents have been convicted under section 307 IPC. The view which has been taken by learned trial Court based on meticulous examination of medical evidence and other evidences on record to come to the conclusion that the death of victim was not because of injury but because of septicemia which developed after he was discharged from the hospital in a fit state, we do not find present to be a fit case for grant of leave to appeal.
6. The petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge