

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1316 of 2019**

- State Of Chhattisgarh Through -Police Station Khadgaon, District Rajnandgaon Chhattisgarh.

---- Petitioner**Versus**

1. Dukaloo @ Umesh Gawde S/o Maniram Gawde, Aged About 28 Years Resident Of Village Munjal, Mandanwada, Police Station Mandanwada, District Rajnandgaon Chhattisgarh.
2. Dhanay @ Anila Markam, S/o Mahar Singh, Aged About 24 Years Resident Of Village Khursekela, Police Station Maanpur, District Rajnandgaon Chhattisgarh.

---- Respondent

For State :- Shri Suryakant Mishra, PL

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Gautam Chourdiya, JJ.**

Order On Board
By
Prashant Kumar Mishra,J.

17/07/2019

1. Heard.
2. On due consideration delay of 243 days in filing of the instant appeal is condoned.

3. Accordingly, I.A. No.01 of 2019, application for condonation of delay occurred in filing of the instant appeal stands allowed.
4. The trial Court has acquitted the accused of the charges under Section 147/149, 148/149, 307/149 and 120 B/149 of I.P.C. and under Section 25 / 27 of the Arms Act and also under Section 3 and 5 of the Explosive Substances Act.
5. During Panchayat Election on 27.01.2015, the polling team was deputed to conduct election in area falling within Police Station Khursekela District Rajnandgaon, was attacked by armed Naxalites at a place falling between village Nawatola and Kamkasur. The Naxalites fired gun-shot over the members of polling team which included some security personnel also. The present accused persons were arrested after about 02 years and 02 months.
6. The trial Court has acquitted the accused for the reason that the prosecution has failed to produce any evidence which may prove that the present accused persons were present and were part of the group of Naxalites which had opened fire on the polling team.
7. No Test Identification Parade was conducted during investigation so as to ascertain the involvement of the present accused persons in the incident. The witnesses

examined by the prosecution have also refused to identify the accused *vis-a-vis* the incident.

8. In absence of any proof that the accused persons were part of the group of Naxalites which had caused the incident, the trial Court has rightly acquitted the accused.
9. In view of the above, no case for granting leave to appeal is made out, therefore, the present CRMP is dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi