

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1254 of 2019**

State of Chhattisgarh, Through - The Incharge, Police Station
Champa, District - Janjgir-Champa (C.G.)

---- Petitioner**Versus**

1. Laxmi Narayan Sahu @ Chintu Rudrasharan Sahu, Aged about - 30 years, R/o - Village Kurda, P. S. Champa, District Janjgir-Champa (C.G.)
2. Raju Dewangan @ Girish Dewangan, Ganeshram Dewangan, Aged about - 24 years, R/o - Dewangan Mohalla, Near Santoshi Temple, Champa, P. S. Champa, District – Janjgir-Champa (C.G.)
3. Muddshir Ansar, Late S. Z. Ansari, Aged about - 19 years, R/o - Loins Chowk, Champa, P. S. Champa, District - Janjgir-Champa (C.G.)
4. Santosh Kumar Yadav, Jaipal Yadav, Aged about - 27 years, R/o - Village Kachanda, P. S. Baradwar, District - Janjgir-Champa (C.G.)
5. Rishi Kumar Dewangan, Nehru Lal Dewangan, Aged about - 23 years, R/o - Sanjay Nagar, Champa, P. S. Champa, District - Janjgir-Champa, (C.G.)

---- Respondents

For State/ Petitioner : Shri Ravish Verma, G.A.

For Respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****17/06/2019**

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in (1996) 3 **SCC 132**, the delay of 208 days in filing the petition is condoned.

3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 13th July, 2018, passed by Sessions Judge, Janjgir-Champa (C.G.) in Sessions Trial No. 31/2018, wherein the said court acquitted the respondents for commission of offence under Sections 399 and 402 of IPC, 1860 and under Section 25(1-B)A, 25(1-B) of Arms Act. For preparation of dacoity and for assembling for the purpose of conducting dacoity and for keeping unlawful arms.
5. To substantiate the charge, the prosecution examined as many as 8 witnesses. From the entire evidence, the trial Court recorded finding that no Rojnamcha Sanha was produced regarding returning with arms and respondents by the police officer namely S.B. Mishra (PW-4). From statement of S. B. Mishra (PW-4), it is not established that country made revolver, sword, knife were seized on the spot. It is also not established that seized articles were kept in safe custody of Malkhana till its examination by armourer Dilip Kumar (PW-5).
6. The case is based on seizer, but seizer itself is under cloud, therefore, charge of decoity and assembling in the said purpose is not established and charge under Section 25 of the Arms Act is also not established against the above three respondents.

7. It is not clear from statement of Radheshyam Gupta (PW-6) posted in the office of District Magistrate that seized articles were produced before the District Magistrate. He clearly stated that the said articles were not produced before the District Magistrate, therefore, without looking to the arms sanction granted by the District Magistrate, is not to be acted upon.
8. The case of the prosecution is not based on direct evidence the case is based on circumstantial evidence. It is settled law that all the links should be completed for establishing the offences. In the present case, no link was proved beyond shadow of doubt that is why the Trial Court recorded finding of acquittal.
9. The trial Court has elaborately discussed the entire evidence and recorded finding of acquittal. After reassessing the same, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
10. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge