

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURACQA No. 279 of 2010

- State Of Chhattisgarh through District Magistrate, Korba,
Distt.: Korba (C.G.)

---- Appellant

Versus

- Johit Alias Rungu, S/o Budhram Gada, aged about 445
years, Residence: Limbhata, Gram : Purena. Police Chowki :
Urga, Police Station : Korba Distt. : Korba (C.G.)

---- Respondent

For Appellant :- Shri K.K. Singh, G.A.

Hon'ble Shri Prashant Kumar Mishra &

Hon'ble Smt. Rajani Dubey, JJ.

Judgment On Board

By

Prashant Kumar Mishra, J

16/05/2019

1. This acquittal appeal has already been admitted for hearing,
however, the respondent has not been served, despite
issuance of non-bailable warrant against him.
2. We have heard learned State counsel on merits.

3. Deceased Duwasia Bai, wife of Jeetram (PW-8), sister-in-law (Bhabhi) of respondent/accused and sister-in-law (Jethani) Chhatbai (PW-1) were staying together in one house. On the date of incident i.e. on 20.05.2002, the respondent was out of the house for the entire day and straightaway went to sleep when he returned to home at about 8 p.m.
4. The deceased objected to this behavior of the respondent requesting him that he must have his dinner before going to bed. On this altercation took place between the deceased and the respondent but thereafter all the family members had their dinner and retired to bed. On the next morning deceased was found lying on the floor with serious injuries over her person. When Chhatbai (PW-1) awake, she found the deceased in such condition but the respondent was not available in the house. Deceased's husband Jeetram PW-8 had gone to a different village; likewise deceased's son Roopchand (PW-12) was also not available in the house as he too had gone to a different village.
5. In the above factual matrix, (PW-1) Chhatbai appears to be most important witness of the prosecution, however, she denies witnessing the incidence in which the respondent allegedly murdered the deceased. All other witnesses including (PW-8) Jeetram and (PW-12) Roopchand derived

information from Chhatbai or from villagers. *Loongi* belonging to the respondent and the weapon used for committing murder has been recovered from the house, however, these recoveries may not be so clinching to convict the respondent for the reason that he being inmate of the house, presence of his *loongi* in his own house is quite natural.

6. Considering the totality of the evidence available on record, we are of the considered view that the finding recorded by the trial Court acquitting the accused for the offences does not seem to be perverse or irrational. Such view is possible in the state of evidence on record and when two views are possible and the trial Court has taken one view for acquitting the accused, the High Court while considering acquittal appeal should not substitute its own view for the view taken by the trial Court **State of MP vs. Bacchudas Alias Balram and Others (See : 2007 (9) SCC 135).**

7. There is no substance in this acquittal appeal which fails and is hereby dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Rajani Dubey)
Judge