

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No.1599 of 2019

State of Chhattisgarh through the Incharge Police Station Sanawal,
District Balrampur – Ramanujganj, Chhattisgarh

---- Petitioner

versus

1. Sameer Ali, S/o Jamshir Shah, aged about 27 years, occupation Driver, R/o Village Solank, P.S. Morva, District Singrouli, Madhya Pradesh
2. Saddam Ansari, S/o Nijamuddin Ansari, aged about 28 years, occupation Kadaai, R/o Village Madhuri, P.S. Nagar Utari, District Gadhwa, Jharkhand
3. Khustar Ansari @ Majhila, S/o Ahmad Ansari, aged about 28 years, occupation Kalin Bunai, R/o Village Khala, P.S. Ghurki, District Gadhwa, Jharkhand
4. Asfak Ansari, S/o Kayamuddin Ansari, aged about 35 years, R/o Village Pipartoli, P.S. Nagar Udari, District Gadhwa, Jharkhand

--- Respondents

For Petitioner	:	Shri Alok Nigam, Government Advocate
For Respondents	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

7.8.2019

1. Heard on I.A. No.1 for condonation of delay of 109 days in filing the instant Cr.M.P. On due consideration of the reasons mentioned in the I.A., it is allowed and delay is condoned.
2. Heard on admission and perused the impugned judgment and the documents available.
3. Vide judgment dated 4.12.2018 passed by the 2nd Additional Judge to the Court of Additional Sessions Judge, Ramanujganj, District Balrampur-Ramanujganj in Sessions Trial No.R 36 of 2016, all the

Respondents/accused were acquitted of the charges framed under Section 397 of the Indian Penal Code and Section 25(1-क)(ख)(ख) of the Arms Act.

4. It was submitted by Learned Counsel appearing for the State/Petitioner that though First Information Report was lodged against unknown persons, during the course of investigation, test identification parade was conducted by Tahsildar Ramshila Lal (PW13). In his Court statement, Ramshila Lal (PW13) has supported the above facts and stated that in the test identification parade, Mohd. Rafiq, Mohd. Kalim and Dinesh Kumar identified the Respondents/accused, but, despite that, the Trial Court acquitted the Respondents.
5. None appeared for the Respondents.
6. From the material available, it is established that the FIR was lodged against unknown persons. Though Tahsildar Ramshila Lal (PW13), who conducted the test identification parade, has stated that Mohd. Rafiq, Mohd. Kalim and Dinesh Kumar had identified the Respondents/accused in the test identification parade, from perusal of the statements of Mohd. Kalim (PW1), Dinesh Kumar (PW2) and Mohd. Salim (PW3), it reveals that they have not stated anything about conducting of test identification parade. Surprisingly, no single question was raised on behalf of the prosecution itself before these witnesses about conducting of test identification parade. Since these three witnesses have not stated anything about conducting of test identification parade nor have they identified the Respondents/accused, the conviction cannot be

sustained only on the basis of the statement of Tahsildar Ramshila Lal (PW13). Therefore, the Trial Court has rightly acquitted the Respondents/accused.

7. I do not find any substance in the instant application for grant of leave to appeal. The application (Cr.M.P.) is, therefore, dismissed at the admission stage itself.

Sd/-
(Arvind Singh Chandel)
Judge