

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 473 of 2017

1. Hiranram S/o Shri Baiga Ram Bargah, Aged About 40 Years
Occupation Agriculturist, R/o Village Parsa, Thana And Tahsil
Udaypur, Civil And Revenue District Surguja, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through District Magistrate
Ambikapur, District Surguja, Chhattisgarh.
2. Jarang Say S/o Thakurram, Aged About 34 Years R/o Village
Parsa, Thana And Tahsil Udaypur, Civil And Revenue District
Surguja, Chhattisgarh.
3. Dilip Majhwar S/o Shri Ram Say, Aged About 21 Years R/o
Village Parsa, Thana And Tahsil Udaypur, Civil And Revenue
District Surguja, Chhattisgarh.

--- Respondents

For Petitioner	Shri Jitendra Shrivastava, Advocate
For Respondent/State	Shri Aditya Sharma, Panel Lawyer

Hon'ble Shri Prashant Kumar Mishra, J.Hon'ble Shri Gautam Chourdiya, J.Order on BoardByPrashant Kumar Mishra, J.25-9-2019

1. Four accused namely; Sandeep Majhwar, Mahaveer Ram,
Jarang Say & Dilip Majhwar were sent for trial for
committing murder of deceased Maghanram.

2. There being no eyewitness to the crime. The prosecution relied on the memorandum statements of the four accused vide Ex.P/12 to Ex.P/15 and consequent recovery. PW-4 Ghasiram and PW-9 Lalku Ram Bhagat are the witnesses to the memorandum statement. While PW-4 Ghasiram would not support the memorandum statement of any of the accused, PW-9 Lalku Ram Bhagat supports the prosecution in so far as memorandum statement of accused Sandeep Majhwar & Mahaveer Ram are concerned. In his examination-in-chief he would make further statement that the present acquitted accused namely; Jarang Say & Dilip Majhwar have not disclosed any information to the police. Albeit he supports the prosecution during cross-examination but once he is not making any statement against the respondents No.2 & 3/ acquitted accused in his examination-in-chief, the evidentiary value of his statement weakens to a great extent.
3. Considering that the case of the prosecution rested only on the evidence of memorandum statement and consequent recovery and out of two memorandum witnesses one (PW-4 Ghasiram) is not supporting the prosecution and the second one i.e. PW-9 Lalku Ram Bhagat is making contradictory statement in his examination-in-chief and in cross-examination, the learned trial Court has rightly taken the view favouring the accused, to acquit them.
4. For the above-stated reasons, no case for grant of leave to appeal is made out. It is accordingly dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge