

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 2023 of 2019

- State of Chhattisgarh Through The Incharge Police Outpost Sonkyari Police Station Sanna District - Jashpur Chhattisgarh.

---- Applicant

Versus

1. Dinesh Shrivastava @ Pinki Aged About 44 Years, R/o Bhoure Colony Ashok Nagar, Police Station City Kotwali, District Ashok Nagar (M.P.) Presently R/o Block - 1 Flat 05, Indrawati Colony, Police Station - Civil Lines, Raipur Chhattisgarh.
2. Deepak Pandarkar S/o Narayan Rao Pandarkar, Aged About 36 Years R/o Shivnagar Jhanda Chowk, Changorabhata, Police Station D.D. Nagar, District Raipur Chhattisgarh.
3. Rajesh Jha S/o Upendra Jha Aged About 39 Years R/o House No. 481, Street No. 32, Sundar Nagar Colony, Police Station D.D. Nagar, District Raipur Chhattisgarh.

---- Respondents

For Applicant-State :- Shri Vikash Shrivastava, PL

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

09/09/2019

1. Heard.
2. On due consideration, delay of 183 days in filing the present Cr.M.P. is condoned. Accordingly I.A. No.1 is condoned.
3. The trial Court has acquitted the accused persons of the charges under Sections 302/34, 120B and 201 of IPC.
4. The accused persons have allegedly committed murder of deceased Rajendra Nigam by firing gunshot over his head at about 7:00 am on 21.01.2007 while he was in a car bearing Registration No. CG 04 H 8038. After the incident dead body of the deceased was found inside the car near Khamhariya to Kuruddih road. Initially it appeared to be a case of suicide but on the report of deceased's father a high level investigation was carried out during which 3 suspects namely J. Ritesh, Pappu @ Taaj Khan and Anwar Dhebar were taken into custody and their Narco Analysis test was conducted. These persons revealed to the police that the deceased had business relation with accused Dinesh Shrivastava. The accused persons were thereafter taken into custody and memorandum statement of Dinesh Shrivastava was recorded wherein he revealed that he had monetary transaction with the deceased in relation to their Real Estate business and money market dealing. Therefore,

on some business related dispute he with the assistance of other accused Deepak Pandarkar and Rakesh Jha called the deceased at the place of occurrence and thereafter committed his murder .

5. In the course of trial the prosecution examined 19 witnesses and also produced evidence in form of memorandum statement, seizure, call details, Narco Analysis report, finger prints expert report, report of Medico Legal Expert of FSL, Bhopal, etc. There being no eye witness, the prosecution relied on circumstantial evidence.
6. In the finger print examination of the revolver it is found that the trigger had finger prints of the deceased himself. Similarly smell and traces of gun powder (barood) was found over the fingers of the deceased and the exit wound however, PW-18, Virendra Chaturvedi, the Investigating Officer, would admit that traces of particles of gun powder are found even in cases of suicide where the deceased had fired on himself. It is also admitted that in the report of Medico Legal Expert by Director of FSL Bhopal, he had opined that the case is of suicide. It is also to be seen that charge-sheet was filed in the year 2017, after about 10 years from the date of incident. There is no clinching evidence against any of the accused so as to form chain of circumstantial evidence so complete against anyone of them

indicating that he alone has committed the murder. Presence of the accused over the place of occurrence is not proved neither it is proved that any of them had hired any person to commit murder, therefore, the present is a case of no evidence against the accused persons.

7. No case for grant of leave to appeal is made out, accordingly, the present Cr.M.P. is dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Ankit

Sd/-

(Gautam Chourdiya)
Judge