

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 127 of 2018**

- State Of Chhattisgarh Through The Incharge Police Station
A J K Janjgir Champa District Janjgir Champa Chhattisgarh.

---- Applicant**Versus**

- Laxmi Prasad Rathore S/o Birriram Rathore Aged About 56
Years Occupation Agriculture, R/o Village Sapiya, Police
Station Dabhra, District Janjgir Champa Chhattisgarh.

---- Respondent**CRMP No. 191 of 2016**

- Gosai Ram S/o Jagbandu Aged About 65 Years Post Master,
R/o Post Officer Sapiya, Police Station Dabra, District Janjgir
Champa Chhattisgarh.

---- Applicant**Versus**

1. Laxmi Prasad Rathore S/o Birri Ram Rathore Aged About 56
Years Occupation Agriculturist, R/o Village Sapiya, Police
Station Dabra, District Janjgir-Champa Chhattisgarh.
2. State Of Chhattisgarh Through The Station House Officer,
Police Station Schedule Caste And Schedule Tribe, Janjgir,
District Janjgir Champa Chhattisgarh.

---- Respondents

For the applicant/ :- Shri Avinash Choubey, Advocate
Victim/Complainant
Gosai Ram

For State of CG :- Shri Rajendra Tripathi, Panel
Lawyer

**Hon'ble Shri Prashant Kumar Mishra &
Hon'ble Smt Rajani Dubey, JJ.**

Order On Board
By
Prashant Kumar Mishra, J.

06/09/2019

1. State as well as victim have filed separate applications seeking leave to appeal against the judgment of acquittal rendered by the trial Court acquitting the accused of the charges under Section 450 and 394 of IPC and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. The accused was sent for trial on the allegations that at about 7 A.M. on 18.10.2011, he committed house trespass by entering into the house of informant Gosai Ram (PW-3) with intent to commit offence and thereafter looted a sum of Rs.50,000/- and caused simple hurt and humiliated him despite knowing that he belongs to Schedule Tribe community.

3. The trial Court has acquitted the accused for the reason that there is no proof that the informant who was a Postman had kept Rs.50,000/- in his house. Even if there was evidence that he had withdrawn Rs.2 Lakh from Post Office, Adbhar, a week before the incident, there is no proof that the entire amount was not disbursed towards wages of Gramin Rozgar Guarantee and that Rs.50,000/- remained to be disbursed.
4. It is also highlighted that the informant had himself written an application to the I.O. that a sum of Rs.50,000/- was missing from his house which was later on recovered under the heap of household wastes.
5. The only witness who had probably seen the incident was Lakshmi Kumari (PW-4), however, she would admit that she did not inform about the incident to any member of the locality and there were material omissions in her court/ diary statement. The manner of assault has also been stated differently in the written report and in the Court statement.
6. Considering the entire evidence, the trial Court has concluded that a minor dispute/ quarrel has been exaggerated to give shape of loot of Rs.50,000/-. It has also been found that the incident did not happen only for the reason that the accused belongs to Schedule Tribe

Community.

7. Considering the nature of evidence on record, the findings recorded by the trial Court is one possible view in the matter, therefore, since the law is well settled that when two views are possible and the trial Court has taken one possible view in the matter, the judgment of acquittal is not to be interfered by the High Court, we are not inclined to grant leave to appeal.
8. Consequently, prayer for leave to appeal deserves to be dismissed. Accordingly, both the applications are dismissed.

SD/-

(Prashant Kumar Mishra)
Judge

SD/-

(Rajani Dubey)
Judge

Ayushi