

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 486 of 2009**

- Jagdish Ram Yadav, S/o Keju Ram Yadav, aged about 39 years, R/o Village Kundel, P.S. Magarlod, District Dhamtari, C.G.

---Applicant**Versus**

1. Shanker, S/o Radhe Lal Sahu, aged about 28 years,
2. Jageshwar, S/o Radhe Lal Sahu, aged about 28 years,

Both are R/o Village Kundel, P.S. Magarlod, District Dhamtari, C.G.

3. State of Chhattisgarh, Through S.H.O. Police Station Magarlod, District Dhamtari, C.G.

---- Respondents

For Applicant	Shri D.N. Prajapati, Advocate.
For Respondent Nos. 1 & 2	Shri Avinash Mishra, Advocate.
For Respondent No.3/State	Shri Pawan Kesharwani, P.L.

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Gautam Chourdiya

Order on Board by Justice Prashant Kumar Mishra

10/01/2020

1. This Criminal Revision under Section 397 read with 401 Cr.P.C. is directed against the judgment of acquittal dated 27.07.2009 rendered by the Additional Sessions Judge, Dhamtari, C.G. in Sessions Trial No. 39/08, acquitting the accused of the charges under Sections 302/34 and 307/34 of IPC.
2. Unknown person committed murder of deceased Lata Bai and her daughter Urwarshi and caused injuries to PW-3 Nuteshwari @ Ranu between 10 pm to 12 pm on 16.04.2008. In the FIR lodged by PW-1

Jagdishram, names of the assailants were not disclosed to the police. In his case diary statement recorded on 19.04.2008, PW-1 Jagdishram informed the police that accused Shankar, his family members and 2-3 other persons are involved in commission of crime. Case diary statement of Nuteshwari @ Ranu was recorded 04.05.2008 wherein she disclosed for the first time that at the time of incident her mother was sleeping in one cot whereas she & her elder sister Urwarshi were sleeping in two separate cots on either side of her mother. After all of them went asleep, her mother Lata Bai touched her to wake her up and she saw that face of her mother was ensanguined. She saw Shanker standing there with an Axe in his hand whereas Jageshwar was standing outside in the *Varanda*. Seeing her awake, Shanker also pressed her neck due to which she fell unconscious. This witness was treated at Medical College Hospital, Raipur from 17th April to 26th April, 2008. PW-21 Pushpendra Kumar Nair, who has treated Nuteshwari @ Ranu, has not stated at any part of his deposition that Nuteshwari @ Ranu was unconscious at the time when she was brought to the hospital for treatment. In any case, Nuteshwari @ Ranu was conscious on 22.04.2008 and was discharged on being declared fit on 26.04.2008. There is absolutely no explanation as to why there was delay of 8 days in recording her case diary statement and 164 Cr.P.C. statement.

3. Considering the nature of evidence available on record, the trial Court's conclusion that the statements of the prosecution witnesses are full of material contradictions and omissions and Nuteshwari @ Ranu does not appear to be a trustworthy witness so as to sustain conviction on her sole testimony, appears to be well founded and

borne out of the evidence.

4. No case for entertaining this revision application is made out, it fails and is hereby dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge

Akhilesh