

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No.242 of 2010

- State of Chhattisgarh

---- Appellant

Versus

- Rajesh alias Rajendra Das Vaishnaw, S/o Uttim Das Vaishnaw, aged about 35 years, Occupation Vegetables Seller, R/o Village Bipatpur (Ghikudiya), Police Station Kundu, District Kabirdham (C.G.)

---- Respondent

For Appellant
For Respondent

Shri Rajendra Tripathi, PL
Shri Praveen Dhurandhar, Advocate

Hon'ble Justice Shri Prashant Kumar Mishra

Hon'ble Justice Shri Gautam Chourdiya

Order On Board by Shri Prashant Kumar Mishra J.

17/01/2020

1. After robbery in the house of the deceased Ayodhya Das at about 11 pm on 17.02.2001, the unknown accused assaulted the deceased by means of club causing injuries over his right parietal region and other parts of the body for which he died about after a month. At the time of incident, the deceased and his Chowkidar Gokaran as also deceased's wife Sahodra Bai were sleeping together. Gokaran committed suicide on the very next day of the incident. Sahodra Bai being an old and infirm lady had neither witnessed the incident nor has been examined either by the Police or in the Court.
2. The case of the prosecution rested on circumstantial evidence in the nature of recovery of club and keys of the house of the deceased and

the statement of PW-6 Kunjram and PW-7 Rajkumar. While Kunjram had seen the accused near the house of the deceased on the date of incident, Rajkumar is the person to whom the accused had stated before the incident that he will kill the deceased and take away his properties.

3. The keys have been recovered from an open place, whereas no blood stains were found over the club. The statement made by the accused before PW-7 Rajkumar is not in the nature of extra judicial confession, as such statement was made before the incident. Similarly, the statement of PW-6 Kunjram lacks credibility as evidence for commission of murder, because mere fact that the accused was seen near the house of the deceased would not be sufficient to conclude that he has committed the murder.
4. Having heard learned counsel for the parties and having seen the material on record, we are satisfied that the view taken by the Trial Court is fully borne out from the evidence available on record.
5. No case for allowing the appeal for converting the judgment of acquittal into a judgment of conviction is made out.
6. The appeal deserves to be and is hereby dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge