

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.619 of 2020

State of Chhattisgarh, Through Station House Officer, Police
Station City Kotwali, Distt. Raigarh (CG)

---- Petitioner

Versus

1. Trinath Bareth S/o Prem Singh Bareth Aged About 45 Years R/o Village Saraibhaddar, Chowki Jute Mill, Police Station City Kotwali, District Raigarh, C.G.,
2. Rohit Pradhan S/o Bhagwano Pradhan Aged About 32 Years R/o Village Saraibhaddar, Chowki Jute Mill, Police Station City Kotwali, District Raigarh, C.G.,
3. Dukalu Kalanga S/o Sahani Kalanga Aged About 26 Years R/o Village Saraibhaddar, Chowki Jute Mill, Police Station City Kotwali, District Raigarh, C.G.
4. Manoj Sidar S/o Dharam Singh Sidar Aged About 25 Years R/o Village Saraibhaddar, Chowki Jute Mill, Police Station City Kotwali, District Raigarh, C.G.
5. Deonath S/o Karu Kalanga Aged About 32 Years R/o Village Saraibhaddar, Chowki Jute Mill, Police Station City Kotwali, District Raigarh, C.G.,
6. Mahavir Rajput S/o Pardeshi Rajput Aged About 32 Years R/o Village Saraibhaddar, Chowki Jute Mill, Police Station City Kotwali, District Raigarh, C.G.

---- Respondents

For the Petitioner/State : Shri DK Tiwari, Dy. Govt. Advocate
For the Respondent : --

Hon'ble Shri Justice Ram Prasanna SharmaOrder On Board12.3.2020

1. Heard on IA No.01/2020 for condonation of delay in filing the petition.

2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 224 days in filing the petition is hereby condoned.

3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.

4. This petition has been preferred against judgment of acquittal dated 11.4.2019 passed by Fifth Additional Sessions Judge, Raigarh (CG) in Session Trial No.115/2018, wherein the said Court acquitted the respondents for charge under Sections 304 read with 34 and 201 of the Indian Penal Code, 1860.

5. In the present case, name of the deceased is Budhram. It is alleged by the prosecution that with intention to catch fish from Kelo river, the respondents put electric wire illegally through transformer and the deceased was electrocuted. No one is the eyewitness account of the incident. The medical expert who conducted autopsy did not opine that the deceased died due to electrocution. Therefore, there is no opinion that the death of the deceased is caused due to electrocution . Though Bundkunwar (PW-3) deposed (para 7 & 8) that the respondents connected wire in the transformer illegally for fishing in the river and one wire was trapped under the stone and at the time of removing said wire the deceased electrocuted. This witness is not the eyewitness account of the

incident but she deposed on the basis of information given to her by respondent Devnath. But version of this witness is not supported by version of medical evidence that it is a case of electrocution. The trial Court after evaluating the relevant facts recorded finding of acquittal. It is not a case where the judgment of the trial Court is based on irrelevant and extraneous matters. It is not a case where the trial Court overlooked the facts and recorded finding of acquittal. The finding of the trial Court cannot be termed as perverse. The view taken by the trial court is one of the plausible view. It is settled law that if two views are possible, the view favourable to the accused should be accepted.

6. After going through the entire record, this Court is of the view that it is not a case where interference of this Court is required with the judgment of the trial Court. It is also not a case where the respondents should be called for full consideration of the case.

7. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE