

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 642 of 2020

State of Chhattisgarh Through Police Station Ghumka, District
Rajnandgaon Chhattisgarh. **---- Petitioner**

Versus

1. Tejram Yadav S/o Mehtru Ram Yadav Aged About 24 Years Resident Of Village Harduwa, Police Station Ghumka, District Rajnandgaon Chhattisgarh.
2. Shiv Kumar Shaan S/o Ashok Kumar Shaan Aged About 19 Years Resident Of Village Harduwa, Police Station Ghumka, District Rajnandgaon Chhattisgarh.
3. Nohar Tandon S/o Dhanau Das Tandon Aged About 19 Years Resident Of Village Dewada, Police Station Ghumka, District Rajnandgaon Chhattisgarh.
4. Yash Kumar Banjare S/o Heera Lal Banjare Aged About 19 Years Resident Of Village Dewada, Police Station Ghumka, District Rajnandgaon Chhattisgarh.
5. Likeshwar @ Rikeshwar Deshlehre S/o Trilok Deshlehre Aged About 20 Years Resident Of Village Dewada, Police Station Ghumka, District Rajnandgaon Chhattisgarh.

---- Respondents

For State/ Petitioner : Mr. D.K. Tiwari, Dy.G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

13.03.2020

1. Heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against judgment dated 06/12/2019 passed by Learned First Additional Sessions Judge, Rajanandgaon (C.G.) in Sessions Case No. 59/2018 wherein the said Court has acquitted the respondents for offence 399 and 402 of the Indian Penal Code, 1860 for preparation of dacoity and for making assembly for the purpose of dacoity on

18th of July, 2018 in the night at about 11.30 p.m. near Ghumka Village.

3. Punit Ram Shriwas, Assistant Sub Inspector (PW-1) deposed before the trial Court that respondent were taken into custody in Police Station. This witness has not deposed regarding prospective place of dacoity. Other witnesses have also not deposed regarding any point where dacoity was to be committed. The case of the prosecution is based on seizure of certain articles but the fact remains that seizure of articles is not sufficient to establish the charge in question; because the prosecution is under obligation to establish as to real intention of the respondents and prospective place of dacoity but evidence to that effect is not adduced before the trial Court.
4. View taken by the said Court is one of the plausible view It is settled law that if two views are possible, the view which is favourable to the respondent/ accused, should be accepted. There is nothing on record to convert order of acquittal into conviction.
5. The trial court has elaborately discussed the entire evidence and after going through the record, this Court has no reason to record contrary finding. It is not a case where the respondents should be called for hearing again for full consideration of this petition. It is not a case where trial Court has over-looked the relevant material placed on record. It is also not a case where order of the trial Court is based on extraneous or irrelevant material and it cannot be termed as perverse or unreasonable.

6. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)

Judge

N.Mohle