

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 541 of 2009**

- Shyam Ashray, aged about 42 years, S/o Ramdayal, R/o Badhiyatola, Dongargarh, Rajnandgoan, C.G.

**----Applicant****Versus**

1. The State of Chhattisgarh, through Police Station Dongargarh, Rajnandgoan
2. Shatruhan Kumar, aged about 25 years, S/o Late Dukhulal Patel, By occupation Tea Shop,
3. Hemlal, aged about 23 years, S/o Dukhulal Patel, by Occupation Tailor,
4. Deepak Kumar, aged about 32 years, S/o Dukhulal Patel, By Occupation Hotel,
5. Punanchand, aged about 32 years, S/o Vishwanath Lautre,

Respondent Nos. 2 to 5, All are R/o Badhiaytoal Ward No.6 Thana Dongargarh, District Rajnandgoan

**---- Respondents**


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| For Applicant              | Shri Parag Kotecha, Advocate along with Shri Shalvik Tiwari, Advocate. |
| For /Respondent No.1/State | Shri N.K. Mehta, P.L.                                                  |
| For Respondent No.3        | Shri Trivikram Nayak, Advocate.                                        |

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

**Order on Board by Justice Prashant Kumar Mishra**

**31.01.2020:**

1. This Criminal Revision under Section 397 read with 401 Cr.P.C. is directed against the judgment of acquittal dated 10.07.2009 rendered by the Additional Sessions Judge, Circuit Court Dongargarh, District Rajnandgaon, C.G. in Sessions Trial No.

16/2008, acquitting the accused persons of the charges under Sections 294, 506 Part II, 307 and in alternative under Section 307 read with Section 34 and Section 109 of IPC.

2. Allegation against the accused persons was that at about 10:30 pm on 19.04.2008, the accused persons assaulted injured PW-4 Shyam Ashray by means of rod, hand, club and fist. Initially, injured was assaulted by Shatrughan and thereafter by Hemnath @ Hemlal by means of iron rod whereas Deepak Patel caused injuries by means of club.
3. As per the injured, two witnesses namely PW-2 Manoj and PW-3 Vijay Kumar Dahad have witnessed the incident.
4. Admittedly, PW-2 Manoj and PW-3 Vijay Kumar Dahad have not supported the prosecution. Injured Shyam Ashray (PW-4), his brother Rakesh Singh (PW-6) and father Ramdayal Singh (PW-7) have supported the prosecution case but they being interested witnesses being relative of injured, the trial Court has opined that in the absence of independent eye-witnesses supporting the prosecution, the charges are not proved beyond reasonable doubt.
5. We have seen the evidence including the statement of PW-5 Dr Suchita Shrivastava, who has examined the injured and accorded her report vide Ex.P-16. Injured has not sustained any grievous injury as the head injury was not accompanied with fracture.
6. Considering the settled legal position that when two reasonable conclusions are possible on the basis of evidence on record, the

appellate Court should not disturb the finding of acquittal recorded by the trial Court and for the reason that the injured has not suffered any grievous injury, the prosecution case is not supported by independent injured witnesses PW-2 Manoj and PW-3 Vijay Kumar Dahad and that there is evidence on record that there is long standing dispute between the family of the injured and the family of accused Punanchand, we are satisfied that the conclusion arrived at by the trial Court is one probable conclusion. Therefore, the present is not considered to be a fit case for sending the matter to the trial Court for re-trial.

7. 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