

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1335 of 2020

- State Of Chhattisgarh Through Its Station House Officer, Police Station Samaripath , District Balrampur Ramanujanj Chhattisgarh. ----- **Petitioner**

Versus

1. Sahadat Ansari S/o Suleman Ansari Aged About 31 Years,
2. Bigan Ram @ Rupesh S/o Bhuneshwar Ram Bhuihar Aged About 22 Years,
3. Bodhram Rajput S/o Devlal Rajput Aged About 48 Years,
4. Jattu Khairwar S/o Dhari Khairwar Aged About 43 Years,
5. All above are Resident Of Village Kurdih, Police Station Chando, District Balrampur, Ramanujanj, Chhattisgarh.
6. Najay Yadav @ Ashok Yadav Aged About 28 Years Resident Of Village Jalbotha, Police Station Chando , District Balrampur Ramanujanj Chhattisgarh. --**Respondents**

For the Applicant :- Mr. K.K. Singh, GA.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board by Justice Manindra Mohan Shrivastava J.

23.11.2020

Heard on prayer for grant of leave to appeal.

2. Learned State counsel would argue that even though the victim Vinod (PW-1), Dhulu Nagesia (PW-2) and Jodhan (PW-3) have not supported the prosecution story of identification of accused by them during trial by way of dock identification yet the Investigating Officer has duly proved identification of the accused by these witnesses who have admitted their signature in the identification memo. He would also submit that recovery of looted

articles made on the basis of memorandum Ex.P-6, Ex.P-7, Ex.P-8, Ex.P-9 and Ex.P-10 is duly proved by the Investigating Officer and though the independent memorandum witnesses have not supported the identification of the looted articles, it hardly makes any difference to the case of the defence. Thus the State counsel holds the judgment of acquittal to be bad in law.

3. We find that the main reason for the learned trial Court to grant acquittal to the accused persons by giving them benefit of doubt is that all the victims PW-1, PW-2 and PW-3 when entered into witness box did not identify any of the accused in the dock during trial. Moreover, they have even not supported identification parade proceedings. All the independent memorandum witnesses have not supported recovery of allegedly looted articles on the basis memorandum statements Ex.P-6, Ex.P-7, Ex.P-8, Ex.P-9 and Ex.P-10.

4. Considering the aforesaid statement of the prosecution witnesses who completely turned hostile both on the aspect of identification and recovery as well, the learned trial Court has acquitted the accused by giving them benefit of doubt. This approach of the learned trial Court does not suffer from any perversity and it cannot be said that the learned trial Court while granting acquittal has not taken into consideration any clinching or reliable incriminating evidence on record. The finding of the trial Court is based on due appreciation of the evidence and therefore, no interference with the same is warranted by this Court.

5. In view of the above we do not consider the present to be a fit case for grant of leave to appeal. Accordingly, the application for grant of leave to appeal is rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ajay