

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1417 of 2020**

- State Of Chhattisgarh, Through Police Station - Somni, District - Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. Angelina Saiman, W/o Prem Saiman, Aged About 47 Years R/o Village - Somni, Police Station - Somni, District - Rajnandgaon, Chhattisgarh
2. Harichand Sahu, S/o Aman Sahu, Aged About 50 Years R/o Birejhar, Police Station - Somni, District - Rajnandgaon, Chhattisgarh
3. Preetam Sahu, S/o Ballaram Sahu, Aged About 19 Years R/o Birejhar, Police Station - Somni, District - Rajnandgaon, Chhattisgarh

---- Respondent

For Petitioner / State : Smt. Hamida Siddiqui, Dy.A.G.

D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board**09/12/2020**

Heard on prayer for grant of leave to appeal.

Learned State counsel would submit that even though no eye witness is there in the case, there is clinching incriminating circumstantial evidence to form complete chain warranting drawal of inference that in all probability, the accused and the accused alone have committed offence. Learned State counsel would argue that as per the FSL report, article J1 – saari of the accused – Angelina was found stained with blood. Further, article A, D1, E, L1, L2, Y2 and Z were found stained with human blood. These articles include seat cover and mat of the vehicle which was used for carrying dead body of the deceased – Angelina and on the basis of memorandum of the accused, vehicle was recovered by the police. The accused failed to explain how human blood was found in these articles. Therefore, it is treated as an additional link to hold that the accused has committed offence.

2. We have considered submission of learned State counsel and carefully scrutinized the evidence on record with particular reference to the findings of the learned Trial Court under the impugned judgment of acquittal.

3. The entire prosecution case is based on circumstantial evidence. Learned Trial Court recorded finding that though the prosecution has come out with a case of seizure of incriminating articles including those mentioned herein above, on the memorandum of the accused and seizure on the presence of the witnesses and articles said to have been seized in presence of the independent witnesses, neither the independent witnesses nor the witnesses of seizure of aforesaid articles have supported the case of the prosecution and all have turned hostile. Further we find that there is no specific finding in the FSL report that blood stains found on the aforesaid articles was of the group and origin of the deceased.

4. Where the prosecution rests only on circumstantial evidence, it is well settled legal position that the chain of circumstances must be complete so as to draw an inference that the accused and the accused alone must have committed the offence. The chain of circumstances is not complete in the present case. Submission of learned State counsel that the accused was required to explain presence of human blood in seat cover and mat of the vehicle and failure provide additional link, cannot be accepted because primary burden rests on the prosecution to first prove seizure of aforesaid stained articles from the possession of the accused. It is only when such burden is discharged by proving seizure, the burden shifts to the accused to explain the circumstances. Learned Trial Court has rightly recorded a finding that as witness of memorandum and seizure have completely turned hostile and when the articles seized is not found from the possession of the accused, need to explain the circumstances does not arise.

5. Except the aforesaid weak, incomplete chain of circumstances which also could not be proved beyond doubt, there is no other incriminating evidence proved by the prosecution to convict the respondent / accused. Therefore, the view taken by the Court below is plausible and possible. Given limited scope of interference against judgment of acquittal, we find ourselves unable to grant leave to appeal. This petition is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge