

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 190 of 2020

Anil Vaishnav S/o Baldau Das Vaishnav Aged About 50 Years R/o Village Arjuni, Police Station Bhatapara (Gramin) District Balodabazar-Bhatapara, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Appellant

Versus

1. Rajendra Verma S/o Gendram Verma Aged About 28 Years R/o Village Arjuni, Police Station Bhatapara (Gramin), District Balodabazar-Bhatapara, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh
2. Hemant Dhritlahre S/o Chaitram Dhritlahre Aged About 25 Years R/o Village Tonatar, Police Station Bhatapara (Gramin), District Balodabazar-Bhatapara, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh
3. The Station House Officer Police Station Bhatapara (Gramin), District Balodabazar-Bhatapara, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondents

For Appellant : Shri Atul Kumar Kesharwani, Advocate

For 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

05/01/2021

Heard on admission.

1. Learned counsel for the appellant argues that in the present case, there were specific evidence led by the prosecution which proves that at the spot, there was a quarrel and then one of the accused directed the other accused to run the vehicle over the victim with intention to cause death and in that incident, the victim sustained fracture injury which was grievous in nature, even then, learned trial Court swayed more by the fact that injury

was not so grave which could cause death, has acquitted the accused from the charges of commission of offence under Section 307 IPC and convicted only under Section 335/34 IPC ignoring the law laid down by the Supreme Court in the case of **State of Madhya Pradesh Vs. Saleem @ Chamaru & Anr.** (AIR 2005 SC 3996).

2. The learned trial court has meticulously examined the entire evidence on record and it is not only the nature of injury but all other attending circumstances and the evidence that the trial Court has recorded a finding that though there was a dispute between the parties and the injured's vehicle was dashed by the JCB machine, it is short of an intention to cause death. The view which has been taken by learned Court below appears to be plausible and possible view and in the absence of any patent illegality or perversity in the view taken by learned Court below, merely because another view is also possible, we are not inclined to interfere with the impugned judgment in so far as acquittal of the accused from the charges of commission of offence under Section 307 IPC is concerned.
3. The appeal is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge