

HIGH COURT OF CHHATTISGARH, BILASPUR
CRMP No. 1224 of 2020

- The State Of Chhattisgarh Through Police Station Bemetara District Bemetara Chhattisgarh. **---- Appellant**

Versus

1. Satish Banjare S/o Harichand Banjare, Aged About 32 Years R/o Village Temri, P.S. Nandghat, District Bemetara Chhattisgarh.
2. Rameshwari Banjare, W/o Mahabali Banjare, Aged About 32 Years R/o Nagaradeeh, Post Piraiya, P.S. Chakarbhatha, Bilaspur Presently R/o Village Temri, P.S. Nandghat, District Bemetara Chhattisgarh. **---- Respondents**

-
- Mr. Lalit Jangde, Dy. GA for the State.
-

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

Per Vimla Singh Kapoor, J.

22.06.2021

The leave to appeal has been sought for by the appellant/State against the judgment impugned dated 17.12.2019 passed by learned Sessions Judge, Bemetara in Sessions Trial No. 36/2019 acquitting the respondents/accused of the charge under Sections 302 and 201 IPC.

2. Facts of the case in nutshell are that both the accused/respondents were in illicit relation with each other. It is relevant to note that the deceased was the husband of accused/respondent No. 2 Rameshwari herein. The case of the prosecution goes to show that on 09.05.2019 when the deceased had gone to Bemetara for attending a Court proceeding, there was some telephonic conversation between the deceased and the respondent No. 1/Satish Banjare. Thereafter they sat together for a drink at Bhatapara and having done so they proceeded to village Raveli to

take respondent No. 2 (Rameshwari Banjare). On the next day, the body of the deceased was found lying in the field of one Khedu Satnami at village Ranka. After registration of Dehati Merg Intimation, FIR (Ex.P-33) was recorded and investigation progressed which resulted in filing of charge-sheet under Sections 302 and 201 IPC against both the accused/respondents. Charge was also framed under the same Sections and after conclusion of trial learned Court below acquitted both the accused/respondents of the charge leveled against them. Hence this application seeking leave to appeal by the State.

3. Heard learned counsel for the parties and perused the material available on record.

4. Though as many as 13 witnesses have been examined by the prosecution including the son of the deceased and respondent No. 2 yet none of them has made any pinpointed statement which could demonstrate the direct or indirect involvement of the respondents in the crime in question. Though two scarfs, one belonging to the accused/respondent No. 1 and the other belonging to the deceased are said to have been seized from the spot, according to Ashwani Manikpuri (PW-10) and Rajendra Nishad (PW-11), only one scarf was seized. Furthermore, the son of respondent No. 2 and the deceased namely Jonsons Banjare (PW-5) has also stated that his father (the deceased) never used to carry any scarf with him nor the same was with him on the date of incident. This apart, no identification parade regarding the scarf was made by the prosecution. The other important aspect of the matter is that the call details obtained by the prosecution vide Ex.P-21 to Ex. P-28 also do not establish the complicity of the accused/respondents with the killing of the deceased. Rather, only

one call said to have been made was by deceased himself on the telephone number of respondent/accused No. 1 but what conversation took place between the two, the prosecution has not been able to demonstrate. Moreover, it is also the case of the prosecution that on the date of incident the respondent No. 1 and the deceased both went to village Raveli after taking liquor to take the respondent/accused No. 2 with them, but not even a single witness has been examined in this behalf who had seen the respondents/accused and the deceased together. Nobody from the family of the sister of the respondent/accused No. 2 at village Raveli has been examined to show that respondent No. 1/accused and the deceased had come to their house to take respondent No. 2 with them. Though from the evidence of the I.O. it appears that the motorcycle belonging to the respondent No. 1/accused was seized during investigation, there is nothing to show that it was in any manner used in commission of the offence. Likewise, the memorandum of respondent No. 2/accused has also not been recorded nor anything incriminating has been seized from her. Thus the chain of the circumstances the prosecution has relied upon to prove the guilt of the respondents/accused is not complete and therefore, they are entitled to get the benefit of the same. Even otherwise it is a settled legal position that when the material collected by the prosecution and the evidence adduced, gives rise to two possible and plausible views, the one favouring the accused has to prevail. Keeping all these things in mind also, this Court has no hesitation to say that the Court below has been fully justified in awarding acquittal to both the accused/respondents which by no stretch of imagination requires any interference by this Court.

5. Accordingly, the leave sought for by the State to appeal is refused and the CRMP No. 1224 of 2020 is hereby dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge