

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 24 of 2021

- Kamlesh Kumar Deshlahre S/o- Tulsi Ram Deslahre Aged About 29 Years R/o- Quarter No. 26 F, Sadak No. 28, Sector 04 Bhilai Tahsil And District Durg (Chhattisgarh)

---- Appellant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Bhilai Bhatti, District : Durg, Chhattisgarh
2. S. Anand @ Monu S/o S. Prasad Rao Aged About 23 Years R/o Sector 4 Sadak 35, Quarter No.- 2B, Bhilai, PS Bhilai Bhatti, District Durg (Chhattisgarh)
3. Krishna Harpal @ Kocha @ Pappu S/o Kamraj Harpal Aged About 27 Years R/o Sector 4 Sadak 31 Quarter 7B, Bhilai, PS Bhilai Bhatti, District Durg (Chhattisgarh)

---- Respondents

For Appellant	:	Shri Hariom Rai, Adv. and Shri Sachin Nidhi, Adv.
For Respondent/State	:	Ms. Sameeksha Gupta, PL

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

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

Per Manindra Mohan Shrivastava

22.02.2021

1. The complainant has preferred this Acquittal Appeal to assail the legality and validity of the judgment passed by First Additional Sessions Judge, District – Durg, C.G., acquitting the respondent No.2 and 3, from the charges under Sections 307, 294, 506B, 323 & 34 of the IPC.
2. Even if we are inclined to condoned the delay in the filing the appeal, we find that the appeal does not deserve admission. We find that there is no merit in the appeal.

3. According to learned counsel for the appellant, the very criminal act of giving an assault by knife on the vital part under the ear around the neck itself shows intention to cause death and therefore, the accused ought to be convicted under Section 307 IPC also.

The learned trial Court, in order to record a finding of acquittal against charges for commission of offence under Section 307 IPC, has not only taken into consideration the entire oral evidence but also the medical evidence, nature of injuries and all attending circumstances to come to the conclusion that it was not a case of intention to cause death, though accused are liable to be convicted under Section 324 IPC. The arguments for learned counsel for the appellant at best is another view but the view which has been taken by the trial Court also appears to be plausible and the judgment does not appear to be suffering from any patent illegality, perversity so as to warrant interference by this Court, keeping in view the limited scope of interference against the judgment of acquittal.

4. For all the above stated reasons we are satisfied that the trial Court has not committed any illegality or perversity while acquitting the accused of the charges under Sections 307, 294, 506B, 323 & 34 of the IPC. There is no substance in this appeal which falls and is hereby dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge