

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No.1460 of 2021

- State Of Chhattisgarh Through Police Station Pasta District Balrampur Ramanujganj Chhattisgarh.

---- Applicant

Versus

1. Pramukh Yadav S/o Devkumar Yadav Aged About 22 Years R/o Village Kunda, Police Station Pasta, District Balrampur Ramanujganj Chhattisgarh.
2. Smt. Reeta Yadav W/o Santosh Yadav Aged About 32 Years R/o Village Putsu, Police Station Pasta, District Balrampur Ramanujganj Chhattisgarh.

---- Non-applicants

For Applicant/State : Mr. Sudeep Verma, Dy. Govt. Advocate.

**D.B.- Hon'ble Shri Justice Rajendra Chandra Singh Samant &
Hon'ble Shri Justice Arvind Singh Chandel**

Order on Board

21/12/2021

1. Heard on application for grant of Leave to appeal under Section 378 (3) of the Code of Criminal Procedure, 1973.
2. It is submitted by learned counsel for the applicant that the non-applicants in this case have been acquitted by the learned trial Court in Sessions Case No.R-77/2017 from the charges of commission of offences under Section 302/34 and 120-B and 294 of I.P.C., which is an erroneous decision of the learned trial Court.
3. It is submitted that the complainant of the case, Dhanukdhari Yadav (P.W.-1) has very clearly deposed before the Court regarding the

presence of these non-applicants and their participation of giving encouragement to the main accused Santosh Yadav, which has been corroborated by the statement of Arvind Yadav (P.W.-6). The learned trial Court has erroneously rejected this statement of these witnesses and acquitted the respondents. Hence, it is prayed that leave to appeal may be granted.

4. Considered on the submissions. On perusal of the documents present in the record of the application, it is found that Dhanukdhari Yadav (P.W.-1) has lodged the un-numbered F.I.R. Dehati Nalshi on 27.08.2017 at about 08:00 PM regarding the incident that had taken place on the same date at 05:30 PM. The name of only one accused namely Santosh Yadav was mentioned as person who has assaulted the deceased Anand Yadav which caused his death. And in the later on development, Dhanukdhari Yadav (P.W.-1) had given statement under Section 164 of Cr.P.C. mentioning the presence of the non-applicant and their participation in encouraging the main accused person and abusing the deceased. In the Court statement Dhanukdhari Yadav (P.W.-1) was confronted with the discrepancy in the F.I.R. lodged by him regarding which he has not given any explanation. Arvind Yadav (P.W.-6), who has made a statement before the Court that he saw the respondents running away from the spot of the incident, is an improved statement, which is not a statement given under Section 161 of Cr.P.C. by him. The learned trial Court has disbelieved the statement of Dhanukdhari Yadav (P.W.-1) and Arvind Yadav (P.W.-6) in the impugned judgement on the basis of the discrepancy which have been mentioned hereinabove. Therefore, we are of the view that the learned trial Court has not committed any error in arriving at the finding and disbelieving the statement of Dhanukdhari Yadav (P.W.-1) as well as Arvind Yadav

(P.W.-6). Hence, it is not a fit case for which, the Leave to Appeal should be granted. Hence, on this basis, we are of the considered view that this application should be rejected. Hence, it is rejected.

5. Accordingly, the application stands disposed off.

Sd/-
(R.C.S. Samant)
Judge

Sd/-
(Arvind Singh Chandel)
Judge

Monika