IN THE HIGH COURT OF JHARKHAND AT RANCHI

Acquittal Appeal (D.B.) No. 42 of 2023
With
Acquittal Appeal (D.B.) No. 45 of 2023

(*Arising out of judgment of acquittal dated 08.04.2022, passed by learned Additional Sessions Judge-II, Hazaribag, in S.T. No. 207 of 2011 and S.T. No. 99 of 2024*)

.....

Kundan Gope @ Kundan Yadav @ Kundan Kumar Yadav, son of Dhiren Gope, resident of Bada Bazar, Gowal Toli, P.O and P.S. -Sadar, District- Hazaribag. **... Appellant(in both cases)**

-Versus-

1. The State of Jharkhand **… Respondent (in both cases)**
2. Deepu Yadav @ Putan Yadav, son of Lakhan Gope, resident of village- Mouza Bada Bazar Gowal Toli, P.O and P.S. Sadar, District- Hazaribag.
3. Umesh Yadav, son of Baisakhi Yadav, resident of village- Mouza Bada Bazar Gowal Toli, P.O and P.S.- Sadar, District- Hazaribag.

…. Respondents(Acq. A. No. 42/2023)

Ganesh Yadav, son of Lakhan Gope, resident of village- Mouza Bada Bazar Gowal Toli, P.O and P.S.- Sadar, District- Hazaribag.

…. Respondent(Acq. A. No. 45/2023)

.....

For the Appellant : Mr. Dhirendra Kr. Deo, Advocate
For the State: Ms. Nehala Sharmin, Spl. P.P.
Mr. Vineet Kr. Vashistha, Spl. P.P
For other Resps.: Mr. Rajesh Kumar, Advocate

PRESENT

SRI ANANDA SEN, J.
SRI PRADEEP KUMAR SRIVASTAVA, J.

J U D G M E N T

29.10.2026

***By Court.*:** These acquittal appeals are preferred against the judgment of acquittal dated 08.04.2022 passed in S.T. No. 207 of 2011 and 99 of 2014, whereby and whereunder, the respondents namely, Deepu Yadav @ Putan Yadav, Umesh Yadav (Acq. Appeal No. 42 of 2023) and Ganesh Yadav (Acq. Appeal No. 45 of 2023), have been acquitted of charge under Sections 147/149, 148/149, 323/149, 324/149, 325/149, 307/149, 302 IPC.

2. The case of the prosecution, in brief, is that Kundan Gope (informant) submitted a written information to the Officer-in-Charge, Hazaribagh Sadar Police Station, alleging therein that on the night of 8.9.2010 at about 9:30 p.m., the brother of the informant, namely, Kuldeep Yadav, and

his friend Durga Gupta went for eating Chowmin at a shop near Banshilal Chowk. At that time, the accused persons were sitting in ambush. It is further alleged that one Sarabjeet Yadav was sitting in the back seat of the motorcycle of the brother of the informant, and one Ruchu Gope was sitting on the motorcycle of Durga Gupta, and when they were crossing from the land in front of Nagendra Store, the accused persons surrounded them, and they started assaulting the brother and his friend with a sword, a hockey stick and an iron blade. It is also alleged that the accused persons assaulted the brother of the informant, Kuldeep Yadav, and Durga Gupta, and severally injured them. Both the injured persons were taken to Sadar Hospital, from where they were referred to Apollo Ranchi, and both of them are under treatment in the ICU at Ranchi, and they are unconscious. It is also alleged that, prior to this incident, the accused persons damaged the informant's shop situated near the Bus Stand.

On the basis of the aforesaid information, an FIR, being Hazaribagh Sadar P.S. Case No. 636 of 2010, was registered. After completion of the investigation, the police submitted a chargesheet against the accused persons. Accordingly, cognisance of the offence was taken, and the case was committed to the Court of Sessions, where charges were framed under Sections 147/149, 148/149, 323/149, 324/149, 325/149, 307/149, 302 IPC against the accused persons; thereafter, the trial commenced on the case being committed.

3. Altogether three witnesses have been examined in this case by the prosecution, who are as follows:-

(i) P.W.1: Kundan Gope (the informant)
(ii) P.W.2: Md. Rizwan, and
(iii) P.W.3: Dr. Rajesh Kumar Gupta

4. The following documentary evidence was exhibited by the prosecution:-

Ext.-1: Written Report.
Ext.-2: Postmortem report.

5. Learned counsel for the appellants submits that there are many charge-sheeted witnesses in this case, but the prosecution has failed to produce them before the Court for recording their depositions. Even the investigating officer has not been examined. He further submits that the prosecution made no effort to produce these witnesses and, as a result, important witnesses were not produced before the Trial Court, creating a

deficiency in the prosecution case, due to which the accused-respondents were acquitted in this case.

6. Learned counsel for the State as well as counsel for the respondents submits that the Trial Court correctly appreciated the evidence of the prosecution witnesses and came to a conclusion that the prosecution has failed to prove its case beyond reasonable doubt. They further submit that the appellant-informant has not approached the appropriate court of law for passing an appropriate order; as such, these points cannot be allowed to be taken by the appellant, as there is laches on the part of the I.O., and the stage to take this ground is already crossed.

7. Heard learned counsel for the parties, and we have gone through the impugned judgment and records.

8. The law dealing with the challenge raised against the judgment of acquittal has been settled by the Hon'ble Supreme Court. The Hon'ble Supreme Court in the case of ***Bhupatbhai Bachubhai Chavda and Another vs State of Gujarat*** reported in ***2024 SCC OnLine SC 523*** at para 6 has held as under:-

> *"6. It is true that while deciding an appeal against acquittal, the Appellate Court has to reappreciate the evidence. After re-appreciating the evidence, the first question that needs to be answered by the Appellate Court is whether the view taken by the Trial Court was a plausible view that could have been taken based on evidence on record. Perusal of the impugned judgment of the High Court shows that this question has not been adverted to. Appellate Court can interfere with the order of acquittal only if it is satisfied after reappreciating the evidence that the only possible conclusion was that the guilt of the accused had been established beyond a reasonable doubt. The Appellate Court cannot overturn order of acquittal only on the ground that another view is possible. In other words, the judgment of acquittal must be found to be perverse. Unless the Appellate Court records such a finding, no interference can be made with the order of acquittal. The High Court has ignored the well-settled principle that an order of acquittal further strengthens the presumption of innocence of the accused. After having perused the judgment, we find that the High Court has not addressed itself on the main question."*

9. Further, the Hon'ble Supreme Court in the case of ***Mallappa v. State of Karnataka,*** reported in ***(2024) 3 SCC 544*** at paras 26 & 27 has held as under:-

> ***"26.*** *No doubt, an order of acquittal is open to appeal and there is no quarrel about that. It is also beyond doubt that in the exercise of appellate powers, there is no inhibition on the High Court to reappreciate or re-visit the evidence on record. However, the power of the High Court to reappreciate the*

evidence is a qualified power, especially when the order under challenge is of acquittal. The first and foremost question to be asked is whether the trial court thoroughly appreciated the evidence on record and gave due consideration to all material pieces of evidence. The second point for consideration is whether the finding of the trial court is illegal or affected by an error of law or fact. If not, the third consideration is whether the view taken by the trial court is a fairly possible view. A decision of acquittal is not meant to be reversed on a mere difference of opinion. What is required is an illegality or perversity.

27. *It may be noted that the possibility of two views in a criminal case is not an extraordinary phenomenon. The "two-views theory" has been judicially recognised by the courts and it comes into play when the appreciation of evidence results into two equally plausible views. However, the controversy is to be resolved in favour of the accused. For, the very existence of an equally plausible view in favour of innocence of the accused is in itself a reasonable doubt in the case of the prosecution. Moreover, it reinforces the presumption of innocence. And therefore, when two views are possible, following the one in favour of innocence of the accused is the safest course of action. Furthermore, it is also settled that if the view of the trial court, in a case of acquittal, is a plausible view, it is not open for the High Court to convict the accused by reappreciating the evidence. If such a course is permissible, it would make it practically impossible to settle the rights and liabilities in the eye of the law."*

10. Further, the Hon'ble Supreme Court in the case of ***Girish Singh v. State of Uttarakhand,*** reported in ***(2020) 18 SCC*** at paras 29, 30, 31 & 32 has held as under:-

"29. *We have referred to the entire evidence. The trial court acquitted the accused. The jurisdiction of the appellate court, when it deals with such an order, is no longer res integra and is subject-matter of a catena of decisions of this Court.*

30. *In Upendra Pradhan v. State of Orissa [Upendra Pradhan v. State of Orissa, (2015) 11 SCC 124: (2015) 4 SCC (Cri) 309] , this Court took the view that if there is benefit of doubt, it must go to the accused, and in case of two views, the view that favours the accused, should be taken, which was more so where the trial court's decision was not manifestly illegal, perverse and did not cause miscarriage of justice.*

31. *In Dilawar Singh v. State of Haryana [Dilawar Singh v. State of Haryana, (2015) 1 SCC 737 : (2015) 1 SCC (Cri) 759] , this Court took the view that the Court will not interfere with the verdict of acquittal merely because on evaluation of evidence, a different plausible view may arise. Very substantial and compelling reasons must exist with the appellate court to interfere with an acquittal.*

32. *In Gamini Bala Koteswara Rao v. State of A.P. [Gamini Bala Koteswara Rao v. State of A.P., (2009) 10 SCC 636 : (2010) 1 SCC (Cri) 372 : AIR 2010 SC 589] , this Court*

> *accepted the contention of the appellant that interference in an appeal against acquittal should be rare and in exceptional circumstance. It was further held that it is open to the High Court to reappraise the evidence and conclusions arrived at by the trial court. However, it is limited to those cases where the judgment of the trial court was perverse. This Court went on to declare that the word "perverse", as understood in law, has been understood to mean, "against the weight of evidence". If there are two views and the trial court has taken one of the views merely because another view is plausible, the appellate court will not be justified in interfering with the verdict of acquittal (see K. Prakashan v. P.K. Surenderan [K. Prakashan v. P.K. Surenderan, (2008) 1 SCC 258 : (2008) 1 SCC (Civ) 182 : (2008) 1 SCC (Cri) 200]).*"

11. Further, the Hon'ble Supreme Court in the case of ***State of Odisha v. Banabihari Mohapatra,*** reported in ***(2021) 15 SCC 268 at*** para 32 has held as under:-

> ***"32.*** *As held by this Court in Sadhu Saran Singh v. State of U.P. [Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357 : (2016) 2 SCC (Cri) 275], an appeal against acquittal has always been on an altogether different pedestal from an appeal against conviction. In an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the appellate court would interfere with the order of acquittal only when there is perversity. In this case, it cannot be said that the reasons given by the High Court [State of Odisha v. Banabihari Mohapatra, 2020 SCC OnLine Ori 936] to reverse the conviction of the accused are flimsy, untenable or bordering on perverse appreciation of evidence."*

12. Considering the aforesaid judgment, we are dealing with this Acquittal Appeal. It is the case of the appellant that the accused persons, i.e. the respondents, have assaulted the brother of the informant and his friend; they have also damaged the shop of the brother of the informant, and the charge sheet has been submitted against the respondents, finding their culpability in the commission of the crime as alleged.

13. From this case, we find that one Durga Gupta is an injured person, but he has not been produced and examined on behalf of the prosecution in this case. P.W. 1, in examination-in-chief, has claimed to have seen the occurrence, but the written information submitted by the informant does not disclose that the informant was present at the place of occurrence or has seen the occurrence. P.W. 2 has been declared hostile by the prosecution, as he has not supported the prosecution case.

14. The Investigating Officer of this case has also not been produced and examined in this case and, as such, neither the place of occurrence has been proved nor the circumstances to connect and complete the chain have been proved. The postmortem report (Ext.2) of the deceased (Kuldeep Yadav) shows that the cause of death was due to cardio-respiratory failure due to severe sepsis and kidney involvement and malnutrition with anaemia possibly due to consequence of old injuries. Thus, we find that there is no definite opinion regarding the cause of death of the deceased. Therefore, it will be said that the prosecution has failed to produce any witness to show the culpability of the accused-respondents. On this basis, the learned trial court concluded that the prosecution failed to prove the charges, leading it to acquit the accused-respondents.

15. Considering the aforesaid facts, we find that the prosecution has miserably failed to establish its case and the Trial Court has correctly acquitted the accused-respondents of the charges.

16. Thus, we find no merit in these appeals. Accordingly, we dismiss these two appeals filed by the informant. Pending interlocutory applications, if any, also stand disposed of.

17. Let the Trial Court Record be transmitted to the Court concerned along with a copy of this judgment.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

High Court of Jharkhand, Ranchi
Dated 29/10/2026
Anu/-Cp.03.

Uploaded on: 06.11.2026