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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 1134 of 2024

Order Reserved On : 07/10/2026
Order Passed On : 04/11/2026

State Of Chhattisgarh Through Its Station House Officer, Police Station Shyang, District : Korba, Chhattisgarh

... Appellant

versus

Bindheshwar Rathiya S/o Dhanshay Rathiya Aged About 25 Years R/o Village Vijay Nagar, P.S. Kapu, District Raigarh, Now Village Gervani (Chandra Dhava) P.S. Pujipathara, District : Raigarh, Chhattisgarh

... Respondent

For Appellant : Mr. Ashish Shukla, Additional AG.

Hon'ble Shri Narendra Kumar Vyas &
Hon'ble Shri Sudhir Kumar, JJ

C A V Order

Per Sudhir Kumar, J.

1. The State/appellant has preferred this petition for grant of Leave to Appeal challenging the judgment of acquittal dated 6.3.2023 passed by the 1st Additional Sessions Judge, Korba, District Korba in ST No.63/2020 whereby the learned 1st Additional Sessions

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Judge has acquitted the respondent/accused of the charges under Sections 307 and 450 of the IPC by extending benefit of doubt.

2. Case of the prosecution is that complainant Dharam Singh Rathiya has lodged an FIR (Ex.-P/1) on 29.7.2020 with the concerned Police Station stating that he got his daughter married with the accused in the year 2020. For about 3 months his daughter had stayed in her in-laws' house. It is alleged that after consuming liquor the accused used to commit *Marpeet* with his daughter and also used to harass her. In the year 2020, the accused and his daughter visited his house. After staying there for some days, the accused returned to his village alone. His daughter was staying with him and the accused used to visit every now and then. When he asked the accused as to why he has dropped his wife (daughter of the complainant) in his house and after calling 2-4 elderly persons, he should resolve the dispute, on which the accused left the place and went to his house and thereafter the accused never returned to the house of the complainant. On the fateful day at about 00.20 hours the accused barged into the house of the complainant and while saying that they are not sending his wife (i.e. daughter of the complainant) with him, the accused picked up a *Tangia* and while saying that he would kill both father-in-law and mother-in-law, assaulted the wife of the complainant on her head, as a result of which wife of the complainant started bleeding. Accordingly, the FIR was lodged.

3. On the basis of aforesaid report, a case was registered against the accused and investigation was conducted. During the course of investigation, the injured was medically examined. Statements of witnesses were recorded. The accused was arrested on 5.9.2020. After completion of investigation and finding sufficient evidence against the accused, the charge-sheet was submitted before the Court of Judicial Magistrate First Class, Korba on 19.11.2020. Thereafter the case was committed to the Court of the Sessions Judge, Korba. The charges under Sections 307 and 450 of the IPC were framed against the accused and read over and explained to him. The accused denied the charges and claimed to be tried.

4. After hearing learned counsel for the parties and considering the material available on record, the trial Court has acquitted the respondent/accused as mentioned above.

5. It was argued by learned counsel for the appellant/State that the conduct of the respondent/accused proves ill- intention on his part and, therefore, he ought to have been convicted by the trial Court. However, the trial Court has acquitted the respondent/accused on the ground that the victim and eyewitness have not identified in their cross examination. The trial Court has failed to appreciate the whole version of PW/1 and PW/2. As such, their version is not sustainable. It was also not considered that prompt FIR has been lodged and (PW/7) Dr. Manmit Thabiet, who examined the victim (PW/2), has categorically opined that the injured has suffered

injuries on head and thereafter (PW/8) Dr. Sachin T.R submitted medical report Ex.P/23. Thus, it is categorically established that the victim has sustained serious injuries and minor discrepancies regarding identification cannot be a ground for acquittal. Though the scope of interference with the order of acquittal is very much limited but the appellate Court is vested with wide powers of re-appreciation of the evidence in the matter. It is the settled position of law that if reappraisal of the evidence goes to show that the finding of acquittal recorded by the trial Court is unjust and perverse, the appellate Court is empowered to set aside the same and reverse the order of acquittal and convict the accused appropriately.

6. In the present case, all the witnesses have supported the case of prosecution and established the case beyond reasonable doubt, however, in spite of that, the trial Court has acquitted the respondent/accused of the said charges. Moreover, the injury inflicted by the accused was not simple in nature and the same was grievous injury, which was caused with intention to kill her and therefore, the offence under those Sections is made out. Hence, the present Appeal may be allowed, the impugned judgment of acquittal may be set aside and the respondent/ accused may be convicted accordingly.

7. We have heard learned counsel for the appellant at length and perused the record.

8. (PW-2) Jagmoti is the victim in the present case. In her examination-in-chief, she has stated that on the date of the incident, at about 12.20 hours in the night, the accused entered her house holding *Tanga* in his hand. At that time, she was lying on the bed but was conscious and a lamp was burning in the room and in the light of the lamp, she saw the accused. Before she could say anything, the accused assaulted on the left side of her head, as a result of which, she fell unconscious. When she regained consciousness, her daughter, husband and people of the vicinity were present. After the incident, she was taken to Dharamjaigarh Hospital for treatment from where she was referred to the District Hospital Korba. In cross-examination, this witness has admitted that on the date of the incident, after taking their meals, she and her family members were sleeping. It was also admitted that on the date of the incident, after turning off the lights, she was sleeping. During cross-examination, this injured witness has admitted that she could not see as to who had inflicted the blow at the time of the incident. Accordingly, her testimony stands contradicted in cross-examination on the material aspect of having witnessed the occurrence. The testimony of this injured witness stands discredited in cross-examination.

9. (PW-1) Dharam Singh is the husband of the victim (PW-2) Jagmoti. In his examination-in-chief, he has stated that on the date of the incident at about 12.20 hours in the night, the accused

entered his house from the roof and assaulted his wife with *Tanga* on her head, as a result of which she suffered grievous injuries and blood started oozing out of her head. He saw the accused assaulting his wife. Thereafter he chased the accused, however, on hearing the voice of his wife, he (this witness) returned and called the people of the vicinity. However, in cross-examination, he has stated that on hearing the voice of his wife, he reached the place of occurrence. He has admitted that he has not seen the accused assaulting his wife. This witness is also not an eyewitness to the incident.

10. (PW-3) Mangal Singh Rathiya has stated that he has not seen the incident. He was called by (PW-1) Dharam Singh and on his call, he along with other persons reached the place of incident. He has further stated that he was informed by (PW-1) Dharam Singh that the accused has assaulted his wife with Tangia. Thereafter this witness was declared hostile. (PW-4) Shrawan Kumar Rathiya is the neighbour of (PW-1) Dharam Singh. He has stated that on the date of the incident, he saw that the victim has suffered injuries on her left side of head. After being declared hostile by the prosecution, he has admitted that on the date of the incident, after hearing hue and cry raised by (PW-1) Dharam Singh, he reached the place of the incident and saw that his wife i.e. the victim has suffered injuries on her head caused by Tangia and blood was oozing out of injuries. (PW-5) Radheshyam is the related witness. He has stated that the accused in front of the police has

informed him about the incident. This witness was also declared hostile by the prosecution. (PW-9) Shyam Kumar Sidar is the Investigating Officer who has proved the FIR (Ex.-P/1) and has conducted investigation in the matter.

11. According to the prosecution case, apart from Jagmoti (PW-2) and Dharam Singh (PW-1), there is no other eyewitness to the incident. The testimony of injured Jagmoti (PW-2) stands discredited in cross-examination. Furthermore, Dharam Singh (PW-1) has not deposed to have witnessed the accused perpetrating the offence. Although the evidence on record establishes that Jagmoti (PW-2) sustained injuries on her head and that the said injury was sufficient in the ordinary course to cause death, however, there is no evidence establishing that the injury sustained by her was inflicted by the accused.

12. It is well settled principle of law that where two reasonable views are possible on the evidence adduced before the trial Court, and the trial Court has acquitted the accused by adopting one of the views, the appellate Court ought not to interfere with the order of acquittal merely because another view is also possible.

13. In view of the forgoing discussion, it is evident that the trial Court has not committed any error of law or fact in acquitting the accused of the aforesaid charges. The impugned judgment of acquittal, therefore, does not warrant any interference by this Court.

14. Accordingly, prayer for grant of Leave to Appeal is rejected and the present CRMP is liable to be and is hereby dismissed.

Sd/-
(Narendra Kumar Vyas)
Judge

Sd/-
(Sudhir Kumar)
Judge

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