CGHC010394522026

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 210 of 2026

SUMIT KUMAR
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Narmada Prasad S/o Balak Ram Jaiswal Aged About 58 Years R/o Village Barpalikala, Police Station Nagarda, Distt- Sakti (C.G.)

... Petitioner(s)

versus

1 - Jagannath @ Ghurauram Jaiswal S/o Balakram Jaiswal Aged About 59 Years R/o Village Barpalikala, Police Station Nagarda, Distt- Sakti (C.G.)

2 - Yugal @ Badu Jaiswal S/o Jagannath @ Ghurauram Jaiswal Aged About 23 Years R/o Village Barpalikala, Police Station Nagarda, Distt- Sakti (C.G.)

3 - State Of Chhattisgarh Through The District Magistrate Janjgir, Distt- Janjgir - Champa (C.G.)

... Respondent(s)

For Petitioner(s)	**:**	Mr. Ishwar Jaiswal, Advocate
For Respondent No.3	**:**	Mr. Manish Kashyap, P.L. for the State

(Hon'ble Shri Justice Ravindra Kumar Agrawal, J.)

Order on Board

30/10/2026

1. Heard.

2. Present is an appeal against acquittal under Section 413 of the Bharatiya Nagarik Suraksha Sanhita, 2023 passed by learned Second Additional Sessions Judge, Sakti, District - Janjgir-Champa in Criminal Appeal No. 24/2023, whereby the respondent/accused persons have

been acquitted from the offence under Section 435 read with Section 34 of the IPC and the judgment of conviction and sentence dated 10.07.2023 passed by learned Officiating Chief Judicial Magistrate, Sakti, District - Janjgir-Champa in Criminal Case No. 144/2018 has been set aside.

3. The prosecution's case, in brief, is that on 25.12.2017 at about 5:00 AM, a fire incident occurred in the agricultural field of the complainant, Narmada Prasad Jaiswal (PW-1), by which his paddy crop was burnt. The matter was reported to the police and on preliminary enquiry, the names of the present respondent/accused persons allegedly surfaced. Thereafter, FIR (Exhibit P-12) for the offence under Section 435/34 of IPC was registered against the present respondents/accused persons. The damages panchnama (Exhibit P-1) was prepared in presence of the witnesses. The ashes of burnt paddy crop were seized from the spot vide seizure memo (Exhibit P-2). Spot map (Exhibit P-3) was prepared by the police and spot map (Exhibit P-9) was prepared by the Patwari. A matchbox was also seized from the spot vide seizure memo (Exhibit P-5). The accused persons were arrested on 17.01.2018 and the memorandum statement of accused Ghurauram alias Jagannath (Exhibit P-4) was recorded. From the accused Badu alias Yugal Kishore, his moped, its registration book and insurance certificate have been seized vide seizure memo (Exhibit P-6). Statements of the witnesses under Section 161 of Cr.P.C. have been recorded and after completion of usual investigation, charge-sheet was filed against the accused persons before the learned Judicial Magistrate First Class, Sakti for the offence under Section 435/34 of IPC.

4. The learned trial Court framed charge against the accused persons for the offence under Section 435/34 of IPC. The accused persons denied the charge and claimed trial.

5. In order to prove the charge against the accused persons, the prosecution has examined as many as 07 witnesses. Statements of the accused persons under Section 313 of Cr.P.C. have also been recorded, in which they denied the circumstances appearing against them, pleaded innocence and submitted that they have been falsely implicated in the offence.

6. After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial Court convicted the respondent/accused persons for the offence under Section 435/34 of IPC and sentenced them to undergo R.I. for 1 year with fine of Rs.1,000/- to each of the accused persons and in default of payment of fine, further additional imprisonment for 15 days. The said judgment of conviction and sentence dated 10.07.2023 was challenged by the accused persons by filing their appeal before the learned Second Additional Sessions Judge, Sakti, District - Janjgir-Champa, which has been allowed by the learned Appellate Court, and the accused persons have been acquitted by holding that the prosecution has failed to prove its case beyond reasonable doubt against the accused persons. Hence, this appeal against acquittal by the complainant.

7. Learned counsel appearing for the appellant would submit that the prosecution has proved its case beyond reasonable doubt but for minor omissions or contradictions, the evidence of prosecution witnesses are reliable and sufficient to hold the accused persons guilty for the alleged

offence. There was previous dispute between the accused persons and the complainant and the accused persons threatened the complainant that they would cause burning of their crop and the labourers were also threatened not to harvest the paddy crop of the complainant. The threatening was soon before the incident. Further, Umend Ram (PW-6) is the witness who saw the present accused persons on the place of incident on the said date itself. The learned trial Court has disbelieved the evidence of PW-6 on the ground that he disclosed the presence of the present accused persons at the place of incident after about 10–15 days, whereas this witness is not the resident of the same village and he was unaware about the incident. As and when he came to know about the offence, he disclosed it to the complainant that he saw the present accused persons at the place of incident on the same day. He would further submit that the learned trial Court had rightly appreciated the evidence led by the prosecution but the learned Appellate Court misinterpreted the evidence of the witnesses and has acquitted the respondent/accused persons, which suffers from perversity and material illegality. Therefore, the impugned judgment of acquittal is liable to be set aside.

8. I have heard learned counsel for the appellant and perused the record of the trial Court.

9. In the present appeal against acquittal, the respondent/accused persons have been acquitted by the learned Appellate Court on the ground that the evidence produced by the prosecution are not sufficient to hold the accused persons guilty for the alleged offence. Though the learned trial Court has convicted the accused persons, the said finding

has been reversed by the learned Appellate Court. The alleged incident occurred on 25.12.2017 at about 5:00 AM. Though there is no eyewitness to the incident who saw the accused persons igniting the crop of the complainant, Umend Ram (PW-6) is the witness who is claiming that he saw the accused persons at that very moment on the place of incident. Umendram (PW-6) is the resident of village Pondi Khurd, whereas the present incident occurred at village – Barpali. He stated in his evidence that on 24.12.2017, he had gone to village Pondi Khurd to the house of Jhadu Gautiya, from where he proceeded to village Bhaisma Khurmi by bus and came back in the evening. On 25.12.2017 at about 3:00–4:00 AM, when he was returning to his house near Marghatti Talab, he saw that the motorcycle of the accused Jagannath was parked on the side of the road and he saw the fire incident in the field of a farmer. Accused Jagannath was running towards the place of incident alongwith another, calling the name as "Badu". Thereafter, he came back to his house and after 10–15 days, when he again had gone towards the house of Jhadu Gautiya, he informed him that on the date of incident, he saw Jagannath and another person at that place. In cross-examination, he stated that he is the resident of Pondi Khurd and the distance between the place of incident and his village is about 10–12 KMs. When he informed the incident to Jhadu Gautiya, he asked him to give a statement to the police. He admitted that at the time of the incident, he was unaware about the owner of the field where the incident occurred. He further admitted that he had not seen the igniting of the fire by the accused persons; since they were running towards that place, he apprehended that they ignited the fire. He further admitted that immediately after the

incident, he had not informed the incident to Jhadu Ram and he informed it after 10–15 days to him.

10. Narmada Prasad Jaiswal (PW-1) is the complainant in whose field the fire incident occurred. He stated in his evidence that the incident is of 25.12.2017. He kept his harvested crop in his threshing field for threshing and asked the owner of the thresher machine, Mr. Sahu, to help him in threshing. The accused persons threatened Mr. Sahu not to help the complainant and if he helped him, they would beat him. On their instance, Mr. Sahu refused to help him in threshing of the crop. Before the incident, the accused persons also raised a quarrel with his wife and threatened her. On the date of the incident, at about 5:00–5:30 AM, when he had gone to his field, he saw the fire incident occurred there. He immediately informed his wife, Sarpanch and Kotwar of the village. He along with the Kotwar and Sarpanch of the village informed it to the police. By the fire incident, he suffered a loss of Rs. 67,000–68,000/-. After 10–15 days, Umend Ram (PW-6) informed the incident to Jhadu Ram (PW-5) and then Jhadu Ram informed the complainant that Umend Ram saw the incident. In cross-examination, he stated about the previous dispute with the accused persons. However, in para 9 of his evidence, he stated that before the incident, the dispute between them was finally adjudicated by the Court and there was no property dispute remaining between them. Admittedly, he is not the eyewitness and he was allegedly informed by Jhadu Ram (PW-5), who was informed by Umend Ram (PW-6).

11. Jhadu Ram Jaiswal (PW-5) has stated that he did not know about any incident but he was informed by Umend Ram that the crop of the

complainant was being burnt by accused Ghurauram, which he informed to the complainant. In cross-examination, he too has admitted that he has not seen anyone causing fire mischief on the threshing field of the complainant.

12. Ramchandra (PW-2), Kishun (PW-3) (Kotwar of the village) have not supported the prosecution's case and nothing has been stated against the accused persons. Nikhilesh Verma (PW-4) is the Patwari who prepared the spot map (Exhibit P-9) and panchnama (Exhibit P-10). Basant Kumar Shukla (PW-7) is the Investigating Officer who conducted the investigation and is a procedural witness.

13. Considering the evidence of the witnesses, it transpires that only Umend Ram (PW-6) claims to be the witness who saw the accused persons near the place of incident on the same day when the incident occurred. However, he has not disclosed the incident to anyone for about 10–15 days. Further, he is the resident of another village and identifying the accused Jagannath on the spot, who was allegedly running from the place of incident and having seen the fire in the field of a farmer, instead of intervening or informing the incident to anyone, he returned back to his house and kept silent for about 10–15 days. His conduct is against the normal behaviour of a prudent man and keeping silent for about 10–15 days even after seeing such an incident makes his evidence doubtful, which has been rightly considered by the learned Appellate Court.

14. Even if there was any dispute between the complainant and the accused persons, that itself would not be sufficient to hold the accused persons guilty in the absence of any cogent and clinching evidence that

on the date of incident they were seen near the place or seen causing fire to the threshing field or crop of the complainant. The consideration of the learned Appellate Court is one of probable and plausible consideration in the facts and circumstances as well as evidence available on record.

15. In an appeal against acquittal, the law is well settled as has been held by the Hon'ble Supreme Court in ***Tulasareddi @ Mudakappa & Another v. State of Karnataka****, reported in 2026 SCC OnLine SC 89*, held that :

> "27. In the case of **Babu Sahebagouda Rudragoudar v. State of Karnataka**[1] this Court held in paragraphs 39 to 42 as under:
>
> > 39. This Court in Rajesh Prasad v. State of Bihar[2] encapsulated the legal position covering the field after considering various earlier judgments and held as below : (SCC pp.482-83, para 29)
> >
> > 29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (Chandrappa v. State of Karnataka[3], para 42)
> >
> > '42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

1 . 2024 (8) SCC 149

2 . (2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31

3 . (2007) 4 SCC 415 : (2007) 2 SCC (Cri)325], SCC p. 432

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.’

40. Further, in H.D. Sundara v. State of Karnataka[4], this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 CrPC as follows : (SCC p. 584, para 8)

"8. … 8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4.If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

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4 . (2023) 9 SCC 581 : (2023) 3 SCC (Cri) 748]

41.1. That the judgment of acquittal suffers from patent perversity;

41.2. That the same is based on a misreading/omission to consider material evidence on record; and

41.3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

42. The appellate court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial court.

* * *

29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, if the view taken is a possible view, the Appellate Court cannot overturn the order of acquittal on the ground that another view was also possible. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:

(a) whether the judgment of acquittal suffers from patent perversity;

(b) whether the judgment is based on misreading/omission to consider the material evidence on record;

(c) an order of acquittal is to be interfered with only when there are “compelling and substantial

reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference.'

(d) the appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

(e) if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

(f) the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

16. Having regard to the evidence available on record and the principles of law enunciated by the Hon'ble Supreme Court in the judgment referred to hereinabove, this Court is of the considered view that no sufficient ground has been made out by the complainant warranting interference with the impugned judgment of acquittal passed by the learned Appellate Court.

17. Accordingly, this Court does not find any merit in the acquittal appeal and the same is hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sumit