



2026:CGHC:14731-DB

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 16 of 2019**

*{Arising out of judgment dated 27.06.2018 passed in Sessions Case No.100/2011 by the learned First Additional Sessions Judge, Durg}*

State Of Chhattisgarh, Through The Station House Officer, Police Station-Chhawani, District- Durg, Chhattisgarh.

**... Appellant****versus**

**1** - Mama @ D. Mohan, S/o. N. Damodaran, Aged About 35 Years, R/o. Ravishankar Shukla Market, Power-House Bhilai, Police Station-Chhawani, District- Durg, Chhattisgarh.

**2** – Kailash, S/o. Harish Chandra Mochi, Aged About 28 Years, R/o. Ravishankar Shukla Market, Power-House Bhilai, Police Station-Chhawani, District- Durg, Chhattisgarh.

**... Respondents**


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For Appellant : Mr. Amit Buxy, Dy. Govt. Advocate

For Respondents : None appeared.

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**(Division Bench)****Hon'ble Shri Justice Sanjay K. Agrawal****Hon'ble Shri Justice Sachin Singh Rajput**

**Judgment on Board****(30.03.2026)****Sanjay K. Agrawal, J.**

1. The State has preferred this acquittal appeal under Section 378(1) of Cr.P.C. calling in question the legality, validity and correctness of the impugned judgment dated 27.06.2018 passed by learned First Additional Sessions Judge, Durg in Sessions Case No.100/2011, by which the learned trial Court has acquitted two respondents herein for the offence under Section 307 of I.P.C. and Section 25 of Arms Act .
2. Mr. Amit Buxy, learned counsel for the State/appellant would submit that the trial Court has committed grave illegality in acquitting the respondents herein, therefore, the appeal deserves to be allowed by setting aside the impugned judgment of acquittal.
3. None appeared on behalf of the Respondents.
4. We have heard learned counsel for the appellant and went through the records with utmost circumspection.
5. At the very outset, we would firstly consider the scope of interference in an appeal against the judgment of acquittal, for which, it would be profitable to notice the relevant principle of law laid down by their Lordships of the Supreme Court in the matter of



**Constable 907 Surendra Singh & Another v. State of Uttarakhand**<sup>1</sup>, whereby in Para-11 & 12 it has been held that the High Court should interfere in the order of acquittal, if the same suffers from perversity and is based on misreading of material evidence etc. and observed as under:

“11. Recently, in the case of ***Babu Sahebagouda Rudragoudar and others v. State of Karnataka***, (2024) 8 SCC 149, a Bench of this Court to which one of us was a Member (B.R. Gavai, J.) had an occasion to consider the legal position with regard to the scope of interference in an appeal against acquittal. It was observed thus:

“38. First of all, we would like to reiterate the principles laid down by this Court governing the scope of interference by the High Court in an appeal filed by the State for challenging acquittal of the accused recorded by the trial court.

39. This Court in *Rajesh Prasad v. State of Bihar* [*Rajesh Prasad v. State of Bihar*, (2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31] encapsulated the legal position covering the field after considering various earlier judgments and held as below : (SCC pp. 482-83, para 29) 6 (2024) 8 SCC 149

“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 case* [*Chandrappa v. State of Karnataka* (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325] , SCC p. 432, para 42)

‘42. From the above decisions, in our considered view, the following general

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principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(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* [*H.D. Sundara v. State of Karnataka*, (2023) 9 SCC 581: (2023) 3 SCC (Cri) 748] this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378CrPC 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:

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.”

**12.** It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and 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.”

6. In the instant case, initially, apart from the absconded accused Ramu Telgu, three persons namely Ishwar, Mama @ D.Mohan & Kailash were charged for the offence under Section 307 of I.P.C and Section 25 of the Arms Act. However, during pendency of the trial, Ishwar has died and two respondents herein have been acquitted. The injured eye-witness Raja Naykar (PW-5) in para 1 of his statement has stated that deceased accused Ishwar and respondents herein (Mama @ D.Mohan & Kailash) along-with absconded co-accused Ramu Telgu had assaulted him by knife. However, in



paragraph 12 of his statement, while confronted with the statement recorded under Section 161 of Cr.P.C. (Ex.P-4), he has clearly stated that such statement is missing in the statement recorded under Section 164 of Cr.P.C. Apart from that, Investigating Officer- Ravindra Upadhyay (PW-8) has stated that Ishwar has caused injury to the injured (PW-5) by Gupti and Kailash did not cause any injury. Apart from that, there is no charge for the offence under Section 307 read with Section 34 of I.P.C. and the charge is only under Section 307 of I.P.C. In that view of the matter, the trial Court is absolutely justified in acquitting the two respondents herein for the offence under Section 307 of I.P.C. and Section 25 of the Arms Act. As such, we do not find any good ground to entertain this acquittal appeal, as there is no illegality and perversity in the impugned judgment, therefore, the appeal is liable to be and hereby dismissed.

Sd/-  
**(Sanjay K. Agrawal)**  
**Judge**

Sd/-  
**(Sachin Singh Rajput)**  
**Judge**

Ashok