



2026:CGHC:837-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 69 of 2018

1 - Bhupendra Singh Sandhu, S/o Shri Diler Singh Sandhu, Aged About 38 Years, R/o- Jawahar Nagar, Raipur, Chhattisgarh.

... Appellant

versus

1 - Anil Soni S/o Jiwan Lal Soni Aged About 24 Years R/o- New Changora Bhata, Shiv Nagar, In Front Of Shiv Kirana Shop, P.S. D.D. Nagar, Raipur, Chhattisgarh.

2 - Dev Kumar Kaushik S/o Nakul Kaushik Aged About 20 Years R/o- New Changora Bhata, Shiv Nagar, Shitla Chowk, P.S. D.D. Nagar, Raipur, Chhattisgarh.

3 - Krishan Kumar Sharma @ Billu S/o Joginder Singh, Aged about 30 years, R/o- Zorapara, In Front Of Sindhi School, P.S. Modhapara, Raipur, Chhattisgarh.

4 - Uday Chawra S/o Kishan Lal Chawra, Aged about 27 years, R/o- Changor Bhata, Near Ajay Thakur Study, Police Station D.D. Nagar, Raipur, District- Raipur, Chhattisgarh.

5 - State Of Chhattisgarh Through- Police Station Modhapara, Raipur, Chhattisgarh.

... Respondent(s)

For Appellant	:	Ms. Pooja Loniya appears on behalf of Mr. Ajay Chandra, Advocate
For Respondent(s) No. 1 to 4	:	Mr. Yogesh Chandra Pandey, Advocate
For Respondent No.5/State	:	Ms. Sunita Sahu, Panel Lawyer

Hon'ble Smt. Justice Rajani Dubey

Hon'ble Shri Justice Radhakishan Agrawal
Judgment on Board

Per Rajani Dubey, J.

07/01/2026

1. The present appeal has been preferred by the appellant assailing the judgment dated 29.04.2017 passed by the learned 3rd Additional Sessions Judge, Raipur (C.G.) in Sessions Case No. 75/2016 whereby the learned trial Court acquitted the

respondents/accused of the offences punishable under Sections 294, 324/34, 307/34 of IPC.

2. The prosecution case, in brief, is that on 14.02.2016, an FIR was registered on the basis of the statement of the complainant Bhupendra Singh Sandhu. He stated that in the night intervening 13.02.2016 - 14.02.2016 at about 12:30 A.M., while he was present at his residence along with his family members, he heard noises of shouting and hurling of abuses outside his house. Upon coming outside, he noticed that some boys were abusing in obscene language.

When the complainant approached them and requested that they desist from such conduct, the said persons namely Dilip Mishra, Chhotu, Bilu and Rinku started abusing him in filthy and obscene language, making derogatory references to his mother and sister. Thereafter, all the four accused persons assaulted the complainant with rods and dandas, and one of the accused, Bilu, who was armed with a knife, inflicted injuries upon the complainant. As a result, the complainant sustained bleeding injuries on his wrist and elbow. The accused persons further assaulted him with rods and dandas on different parts of his body, causing injuries on his back, shoulder and face. On hearing the complainant's shouts, the accused persons fled away from the spot on their motor-cycles, one of which was black in colour bearing registration number 3977. Subsequently, the complainant's brother Vijay Pal reached the spot.

During the course of investigation, the accused persons were arrested. Upon completion of investigation, the police filed a charge-sheet (challan) before the competent Court. After compliance with the provisions of Section 207 of the Code of Criminal Procedure, the learned Judicial Magistrate First Class, Raipur, vide order dated 18.04.2016, committed the case to the Court of Sessions, which was thereafter assigned to this Court by way of administrative order.

Upon consideration of the material on record, this Court framed charges against the accused persons for the offences punishable under Sections 294, 324 read with Section 34, and 307 read with Section 34 of the Indian Penal Code, vide order dated 17.06.2016. The accused persons pleaded not guilty and claimed to be tried.

3. In order to establish the guilt of the accused/respondents, the prosecution examined 12 witnesses in support of its case. The statements of the accused/respondents were recorded under Section 313 of the Code of Criminal Procedure, wherein they denied all incriminating circumstances appearing against them and claimed innocence, alleging false implication. The accused/respondents did not adduce any evidence in their defence.
4. Upon a comprehensive appreciation of the oral and documentary evidence available on record, the learned Trial Court, by the

impugned judgment, acquitted the accused/respondents of the offences punishable under Sections 294, 324 read with Section 34, and 307 read with Section 34 of the Indian Penal Code. Hence this acquittal appeal.

5. Learned counsel for the appellant submits that the impugned judgment of acquittal passed by the learned Trial Court is illegal, perverse and unsustainable both on facts and in law. The learned Trial Court has committed a grave error in disbelieving the consistent and cogent testimonies of the prosecution witnesses without assigning any justifiable reasons. The learned Trial Court failed to properly appreciate the medical evidence, particularly the testimony of P.W.-1 Dr. Sanjeev Kumar Vohra, Medical Officer, who categorically proved the injuries sustained by the victim, including a lacerated wound on the left wrist and another on the back and who referred the victim to the Orthopaedic Department, Mekahara, for expert opinion. The said medical evidence fully corroborates the ocular version of the prosecution witnesses.

Further, the Court below has erroneously ignored the deposition of P.W.-3 Jogendra Singh Sandhu, an eye-witness, who clearly stated that the accused persons were assaulting the victim with rod and danda and that one of the accused attempted to inflict a knife blow on the abdomen of the victim, which was warded off, resulting in injury to his hand. The said testimony clearly establishes the intention and overt acts of the accused persons. The learned Trial Court has also failed to properly

appreciate the consistent statement of the victim, who specifically deposed that the accused persons abused him in filthy language referring to his mother and sister and assaulted him, threatening him with dire consequences, whereafter the accused fled from the spot. The said version remained unshaken during cross-examination and finds corroboration from medical and other prosecution evidence.

The learned Court below has, therefore, misread and ignored material evidence on record and has erroneously extended the benefit of doubt to the accused persons, despite the prosecution having proved its case beyond reasonable doubt. The impugned judgment is contrary to the evidence available on record and has resulted in a miscarriage of justice. The existence of prior enmity between the parties, instead of being a ground for false implication, provided a strong motive for the commission of the offence.

In view of the aforesaid submissions, it is humbly prayed that the impugned judgment of acquittal be set aside and the accused persons be convicted for the offences punishable under Sections 294, 324 read with Section 34, and 307 read with Section 34 of the Indian Penal Code.

6. On the other hand, learned counsel for the respondents/accused submits that the impugned judgment of acquittal is based on a proper appreciation of the evidence on record and does not suffer

from any perversity or illegality. The learned Trial Court has rightly found material contradictions and inconsistencies in the testimonies of the prosecution witnesses and has correctly held that the prosecution failed to establish the guilt of the accused beyond reasonable doubt. The view taken by the Trial Court being a possible and reasonable view, no interference is warranted in an appeal against acquittal.

7. The learned State counsel supports the submissions advanced by the appellant and contends that the Trial Court has failed to properly appreciate the consistent ocular evidence corroborated by medical evidence on record. It is further submitted that the findings recorded by the Trial Court are erroneous and have resulted in a miscarriage of justice. It is, therefore, submitted that the impugned judgment of acquittal deserves to be set aside and the accused persons are liable to be convicted in accordance with law.
8. Heard counsel for the parties and perused the material placed on record.
9. From the record, it is evident that the learned Trial Court framed charges against the respondents/accused under Sections 294, 324 read with Section 34 and Section 307 read with Section 34 of the Indian Penal Code. Upon a detailed appreciation of the oral as well as documentary evidence on record, the learned Trial Court came to the conclusion that the prosecution failed to establish the

guilt of the respondents/accused beyond reasonable doubt and accordingly acquitted them of all the charges.

10. A perusal of the FIR (Ex.P/4) reveals that it was initially lodged by the complainant Bhupendra Singh Sandhu against accused persons namely (1) Dilip Mishra, (2) Chhotu Sahu, (3) Rinku Gupta, and (4) Billu. However, during his examination as well as in his statement recorded under Section 161 of the Code of Criminal Procedure, the complainant made allegations against an entirely different set of persons namely Anil Soni, Devkumar, Uday, and Krishna Kumar.
11. The complainant Bhupendra Singh (P.W.-4) candidly admitted in his cross-examination that the FIR (Ex.P/4) was not lodged against the present respondents/accused and that their names did not find mention in the said FIR.
12. The learned Trial Court rightly took note of this material contradiction and observed that the complainant had substituted the names of the accused persons at a later stage without offering any plausible or satisfactory explanation as to why incorrect names were mentioned in the FIR in the first instance and subsequently replaced with the names of the present respondents/accused.
13. The learned Trial Court further appreciated the discrepancy relating to identification of the accused. While the complainant asserted that he identified the accused persons at the police

station, the Investigating Officer Bharat Dewangan (P.W.-12) categorically deposed that no test identification parade was conducted as the FIR itself contained the names of the accused persons, thereby rendering the alleged identification doubtful.

14. In view of the inconsistencies and contradictions emerging from the examination-in-chief and cross-examination of the complainant Bhupendra Singh (P.W.-4), coupled with the contents of the FIR and other material on record, the learned Trial Court correctly held that the testimony of the complainant was unreliable.

15. The Hon'ble Apex Court in its latest judgment dated 12.02.2024 (Criminal Appeal No 1162 of 2011) passed in **Mallappa and Ors. Versus State of Karnataka**, has held in para 36 as under:-

36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:-

“(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be

*comprehensive--
inclusive of all
evidence, oral and
documentary;*

*(ii Partial or selective
appreciation of
evidence may result
in a miscarriage of
justice and is in itself
a ground of
challenge;*

*(iii If the Court, after
appreciation of
evidence, finds that
two views are
possible, the one in
favour of the accused
shall ordinarily be
followed;*

*(iv) If the view of the
Trial Court is a legally
plausible view, mere
possibility of a
contrary view shall not
justify the reversal of
acquittal;*

*(v) If the appellate
Court is inclined to
reverse the acquittal in
appeal on a re-
appreciation of*

evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court.”

16. On a cumulative consideration of the evidence on record, it is manifest that the prosecution case suffers from serious and material contradictions, particularly with regard to the identity of the accused persons. The complainant himself admitted that the names of the present respondents/accused did not figure in the FIR and were introduced at a later stage without any plausible explanation. Further, the alleged identification of the accused stands vitiated in the absence of a test identification parade, as admitted by the Investigating Officer.
17. The learned Trial Court has meticulously appreciated both oral and documentary evidence and has recorded well-reasoned findings while acquitting the respondents/accused. The inconsistencies in the testimony of the complainant go to the root of the prosecution case and render his evidence unreliable, thereby creating serious

doubt regarding the involvement of the respondents/accused.

18. In light of the principles laid down by the Hon'ble Supreme Court in ***Mallappa*** (*supra*), it is clear that the view taken by the learned Trial Court is a legally plausible and reasonable view. Even if an alternative view is hypothetically possible, the same cannot be a ground for interference in an appeal against acquittal.
19. No perversity, illegality or error of law or fact has been demonstrated in the impugned judgment warranting interference by this Court. Accordingly, the findings recorded by the learned Trial Court deserve to be affirmed.
20. Consequently, the appeal being devoid of merit is liable to be dismissed.

Sd/-
(Rajani Dubey)
JUDGE

Sd/-
(Radhakishan Agrawal)
JUDGE