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HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 388 of 2025

1 - Ramsheela W/o Shri Somnath Patel Aged About 38 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

... appellant (s)

versus

1 - Parmanand S/o Phoolsingh Aged About 66 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

2 - Loknath S/o Kansram Aged About 50 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

3 - Vrindavan S/o Kansram Aged About 57 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

4 - Dayaram S/o Kalapram Aged About 49 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

5 - Shobharam S/o Parmanand Aged About 50 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

6 - Mayaram S/o Kalapram Aged About 45 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

7 - Krishnachandra S/o Santram Aged About 56 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

8 - Labhoram S/o Dayaram Aged About 23 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

9 - Kuso S/o Dayaram Aged About 23 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

10 - Nandkumar S/o Parmanand Aged About 33 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

11 - Kalapram S/o Phoolsingh Aged About 75 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

12 - Dholchand S/o Vrindavan Aged About 26 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

13 - Budhiyarin W/o Kanshram Aged About 70 Years Caste Aghariya, R/o Village Maandeep, Thana Bilaigarh,, District : Balodabazar-Bhathapara, Chhattisgarh

... Respondent(s)

For appellant (s) : Ms. Shailja Shukla, Advocate

S.B. Hon'ble Shri Justice Ravindra Kumar Agrawal

Order on Board

26.02.2026

1. Heard on admission.
2. The present acquittal appeal filed by the appellant against the impugned judgment of acquittal dated 29.01.2020 passed by learned 3rd Additional Sessions Judge, Balodabazar in Criminal Appeal No. 88/2019 whereby the respondent/ accused persons have been acquitted from the offence under Section 294, 506 (Part II), 323 (3 counts), 426 of IPC and Section 4 and 5 of Chhattisgarh Tonhi Pratadna Nivaran Act, 2005.

3. The brief facts of the case are that the appellant was the complainant in the complaint case filed by her before the learned Judicial Magistrate first Class, Bilaigarh, Dist- Balodabazar for which a Criminal Case No. 136/2013 was registered. She filed the complaint case with the allegation that on 24.06.2010 at about 6 am, the accused persons abused the complainant with filthy language and threatened her with dire consequences. They also raised allegation that the complainant is playing witchcraft and she was being assaulted by the accused persons by hand and fists in causing mischief by demolishing the boundary wall of her house. The complaint case was registered and trial was commenced. The complainant did not appear in the trial for recording of her evidence despite various opportunities were granted to her to produce her evidence and only one witness Banshilal has been examined on her behalf. Since, the complainant had not appeared in the proceeding for recording of her evidence, the learned trial Court has acquitted the respondent/ accused persons for the alleged offences holding that the witness Banshilal has not supported the case of the complainant and the complainant herself has not been examined, therefore, there is no offence is made out against the respondent/ accused persons.
4. Since, the complainant has not appeared before the proceeding, the complaint case filed by her was dismissed in absence of the complainant while invoking of the provisions of 249 of Cr.P.C. vide order dated 30.04.2018 and the accused persons were discharged. The said order of discharge dated 30.04.2018 was challenged by the complainant before the learned 2nd Addl. Sessions Judge, Balodabazar in Criminal Revision No. 58/2018 which was allowed vide order dated

12.03.2019 and directed the parties to appear before the learned trial Court and the learned trial Court shall decide the case on merits. Again the complainant failed to appear before the proceeding of the learned trial Court and then the learned trial Court close the right to lead evidence of the complainant and decided the case on 02.07.2019.

5. The judgment of acquittal dated 02.07.2019 passed by learned trial Court was challenged by the complainant under Section 372 of Cr.P.C. before the learned 3rd Addl. Sessions Judge, Balodabazar by filing Criminal Appeal No. 88/2019 which has also been dismissed by the learned Appellate Court vide its judgment dated 29.01.2020 and affirmed the order of acquittal of the accused persons which is under challenged in the present acquittal.
6. Learned counsel for the appellant would submit that although, the complainant could not appear for recording of her evidence, but the evidence of Banshilal has been recorded and he duly supported the complainant's case that the complainant was being harassed and assaulted by the accused persons, abused and threatened by them. Therefore, the acquittal of the accused persons is erroneous and is liable to be set aside.
2. I have heard learned counsel for the appellant and perused the record of the trial Court.
3. From perusal of the record of the trial Court, it transpires that the complainant could not appear before the learned trial Court for recording of her evidence despite time was granted repeatedly. The charges were framed on 24.04.2019 and the case was fixed for recording evidence of the complainant witnesses but on 30.04.2019,

16.05.2019, 25.05.2019, 31.05.2019, 19.06.2019, despite time was granted to produce the complainant's witnesses, the complainant failed to present her witnesses and therefore, the right to lead evidence of the complainant was forfeited and the case was fixed for recording of the evidence of accused persons. Thereafter, recording the accused statement, the judgment has been passed and the respondent/ accused persons have been acquitted by holding that since, the complainant herself has not appeared for recording of her evidence, there is no sufficient evidence to convict the appellant for the alleged offence. From perusal of the evidence of Bansilal, who has been examined on behalf of the complainant has not supported the prosecution's case and he stated in his examination in chief that he did not know about the incident and there was no incident in his presence. In absence of any evidence against the respondent/ accused persons, there cannot be any conviction against the accused persons. The judgment of acquittal passed by learned trial Court as well as learned Sessions Court are absolutely justified and the plausible view taken by them by passing the judgment of acquittal, in which I do not find any perversity or illegality in the judgment passed by learned trial Court as well as learned Sessions Court, acquitting the respondent/ accused persons from the alleged offences.

4. Accordingly, the acquittal appeal is devoid of merits and is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)

JUDGE