



2026:CGHC:2917-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 693 of 2024

1 - State of Chhattisgarh Through- Police Station Baikunthpur, District Koriya (C.G.)

... Appellant

versus

- 1** - Jodhan Ram Khairwar S/o Birbal Khairwar, Aged About 50 Years
- 2** - Gulab Khairwar S/o Birbal Khairwar, Aged About 63 Years
- 3** - Dular Sai Khairwar S/o Birbal Khairwar, Aged About 30 Years
- 4** - Shiv Prasad Khairwar S/o Gulab Khairwar, Aged About 29 Years
- 5** - Uday Chand Khairwar S/o Birbal Khairwar, Aged About 48 Years
- 6** - Sushil Yadav S/o Shivcharan Yadav, Aged About 48 Years

All are R/o Village Patrapali, Police Station Baikunthpur, District Koriya (C.G.)

... Respondent(s)

For Appellant	:	Mr. Ram Narayan Sahu, Dy. G.A.
For Respondent(s)	:	Mr. Anil Kumar Gulati, Advocate

Hon'ble Smt. Justice Rajani Dubey
Hon'ble Shri Justice Radhakishan Agrawal
Judgment on Board

Per Rajani Dubey, J.

19/01/2026

1. Heard on admission.
2. The present appeal has been preferred by the appellant challenging the judgment dated 07.09.2023 passed by the learned Special Judge [Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act], Baikunthpur, District Koriya (C.G.), in Special Criminal Case No. 03/2018, whereby the learned trial Court convicted the accused for the offence punishable under Section 323 read with Section 149 of the Indian Penal Code (three counts) and acquitted them of the charges under Sections 147, 148, 294, 506 (Part II), 323 (two counts), 353 (two counts), 307 read with Section 149 (two counts) of the Indian Penal Code, as well as under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. The prosecution case, in brief, is that on 23.08.2017, the complainant- Sandeep Kumar Sai was posted as a Constable and

Santosh Sahu was also posted as a Constable. On the said date at about 7:30 p.m., both the aforesaid police personnel proceeded to Village Patrapali for the purpose of serving summons upon Somaru Ram and Bholashankar Yadav, who were complainant persons in Crime Nos. 230/2017 and 231/2017 registered at Police Station Baikunthpur. When they reached in front of the house of injured Bholashankar Yadav, the accused persons arrived at the spot, armed with deadly weapons such as iron rods and sticks and with the common intention to commit murder, assaulted Constable Sandeep Kumar Sai and Constable Santosh Sahu. When Ravishankar Yadav, Bholashankar Yadav and Harihar Yadav intervened to rescue them, the accused persons also assaulted these intervenors with sticks and iron rods with an intention to cause their death. In the course of the incident, the injured persons as well as the complainant and Constable Santosh Sahu sustained injuries. Somehow, the complainant Sandeep Kumar Sai and Santosh Sahu managed to save their lives and escaped from the spot.

On the basis of the written report lodged by the complainant-Sandeep Kumar Sai, Raghunath Ram Bhagat, Assistant Sub-Inspector (P.W.-03), registered First Information Report vide Ex. P-03 at Police Station Baikunthpur under Crime No. 232/2017 for offences punishable under Sections 307, 147, 148, 149, 186, 323 and 332 of the Indian Penal Code. The injured persons were medically examined. During the course of investigation, a spot

map (Ex. P-12) was prepared and statements of witnesses were recorded. On production of the caste certificate by complainant Sandeep Kumar Sai, a seizure memo (Ex. P-29) was prepared. Pursuant to the memorandum statements of accused Jodhan, Gulab Khairwar, Dular Sai, Shiv Prasad and Sushil Yadav, one wooden stick, one iron rod, one wooden stick, one bamboo stick and one iron rod were seized and seizure memos were prepared vide Exs. P-18 to P-21 and P-28 were prepared.

Upon completion of investigation and on finding prima facie evidence against the accused, they were arrested vide Exs. P-22 to P-25 and intimation of arrest was given to their family members vide Ex. P-26. After due investigation, the charge-sheet was filed before the competent Court for offences punishable under Sections 307, 147, 148, 149, 186, 353 and 332 of the Indian Penal Code. The learned Trial Court framed charges against the accused under Sections 147, 148, 294, 506 (Part-II), 323 (two counts), 353 (two counts), 307 read with 149 (two counts) and 323 read with 149 (three counts) of the Indian Penal Code, and additionally against accused Sushil Yadav under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The charges were read over and explained to the accused, to which they pleaded not guilty and claimed to be tried.

4. In order to bring home the guilt of the accused/respondents, the prosecution examined as many as 13 witnesses. The statements of the accused/respondents were also recorded under Section

313 of the Code of Criminal Procedure, wherein they denied all the incriminating circumstances appearing against them and pleaded innocence alleging false implication in the case. The accused/respondents did not lead any evidence in defence.

5. Upon due appreciation of the oral and documentary evidence on record, the learned Trial Court found the accused guilty and convicted them for the offences punishable under Section 323 read with Section 149 of the Indian Penal Code (three counts). However, the trial Court acquitted the accused of the charges under Sections 147, 148, 294, 506 (Part-II), 323 (two counts), 353 (two counts) and 307 read with Section 149 (two counts) of the Indian Penal Code. Further, accused Sushil Yadav is also acquitted of the charge under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Hence, this acquittal appeal.

6. Learned counsel for the appellant submits that although the scope of interference in an order of acquittal is limited, the appellate Court possesses wide powers to re-appreciate the evidence. Where such reappraisal reveals that the findings of acquittal are unjust, perverse, or contrary to law, the appellate Court is fully empowered to set aside the acquittal and convict the accused. The learned trial Court erred in acquitting the accused merely on the basis of minor discrepancies in the statements of witnesses, despite consistent and categorical testimony of the injured witnesses regarding the occurrence of the incident. The trial Court

further erred in holding that in the absence of specific attribution of obscene words to individual accused, none could be held guilty. When the accused acted jointly with common intention, collective utterance of obscene words is sufficient to attract criminal liability. The evidence of prosecution witnesses clearly establishes the commission of the alleged offences, leaving no scope for doubt. The learned trial Court wrongly concluded that grievous injuries or intention to cause death were not proved. Even in the absence of intention to murder, reckless use of deadly weapons causing grievous injuries with knowledge of possible fatal consequences was clearly established. The court below failed to consider the recovery of weapons from the possession of the accused and erred in disbelieving the testimony of the injured police constables who were discharging official duties at the time of the incident. The learned trial Court also failed to properly appreciate the confessional statements and other reliable material on record implicating the accused. For the aforesaid reasons, the impugned judgment of acquittal is unjust, improper and contrary to law and is therefore liable to be set aside.

7. On the other hand, learned counsel for the respondents submits that the impugned judgment of acquittal has been passed after proper appreciation of the evidence on record and does not suffer from any perversity, illegality or infirmity warranting interference. The findings recorded by the learned trial Court are reasonable and plausible, and therefore, in view of the settled principles

governing appeals against acquittal, the present appeal deserves to be dismissed.

8. Heard learned counsel for the parties and perused the material available on record.
9. It is clear from record of learned trial Court that learned trial Court framed charges against the accused under Sections 147, 148, 294, 506 (Part-II), 323 (two counts), 353 (two counts), 307 read with 149 (two counts) and 323 read with 149 (three counts) of the Indian Penal Code and additionally against accused Sushil Yadav under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and after appreciation of oral and documentary evidence, the learned trial Court convicted the accused for the commission of offences punishable under Section 323 read with Section 149 of the Indian Penal Code (three counts) and acquitted them of the charges under Sections 147, 148, 294, 506 (Part-II), 323 (two counts), 353 (two counts) and 307 read with Section 149 (two counts) of the Indian Penal Code. Further, accused Sushil Yadav is also acquitted of the charge under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
10. Ravishankar Yadav (P.W.-5) stated that on 23.08.2017 at about 7:30 p.m., he, his father Harihar Yadav and his younger brother Bholashankar Yadav were present at their house when two policemen from Baikunthpur Police Station arrived and called

them outside. While they were speaking to the policemen, the accused, who were standing in front of the house, began abusing them and accused them of calling the police. Despite the policemen intervening to stop the abuse, the accused returned armed with sticks and rods, assaulted the policemen and when the witness and his family attempted to intervene, they were also assaulted by the accused.

11. Sandeep Kumar Sai (P.W.-6) stated that on 23.08.2017 at about 7:00–7:30 p.m., while acting on the directions of Sub-Inspector Omshankar Sahu, he along with Constable Santosh Sahu went to village Patrapali to summon Bholashankar Yadav in connection with Crime Nos. 230/17 and 231/17. During their interaction, 4–5 persons armed with sticks and rods arrived, abused Bholashankar for seeking police assistance and suddenly assaulted the police personnel. A written complaint was lodged vide Ex. P/6 and the FIR was registered vide Ex. P/3, on which he admitted his signatures.

In his cross-examination, when he was asked whether he had been sent to serve the notice and whether the notice was served, he replied in the affirmative.

12. Ramesh Chandra (P.W.-9) stated that on 21.08.2017 at around 7:00–7:30 p.m., when he went to Harihar Yadav's house, he saw only a couple of policemen and the accused. On inquiry, he was

informed that the accused were assaulting the policemen and also Bholashankar, Harihar Yadav and Ravi Yadav.

13. Bhola Shankar Yadav (P.W.-10) deposed that on the date of the incident, two police personnel came to his house, whereupon the respondents assaulted them with clubs.

In his cross-examination, he admitted the defence suggestion that a criminal case was also registered against them in relation to the same incident.

14. Dr. Surendra Paikra (P.W.-7) examined the injured persons, namely Sandeep Sai, Santosh Kumar, Harihar Yadav, Ravishankar Yadav and Bhola Shankar Yadav, found simple injuries on their body and issued medical reports marked as Exs. P/31 to P/35.

15. A close scrutiny of the statements of all the witnesses reveals that on the date of the incident, Constables Sandeep Sai and Santosh Kumar had gone to Village Patrapali for the purpose of serving a notice issued by the SHO, Police Station Baikunthpur. During the said visit, a quarrel ensued between the complainant and the accused persons, as a result of which the injured persons sustained injuries. The learned trial Court meticulously appreciated the oral as well as documentary evidence and convicted the accused for the offence under Section 323 read with Section 149 IPC (three counts). However, a cumulative reading of the testimonies of the prosecution witnesses clearly demonstrates

that the prosecution failed to establish its case for other charges against the accused beyond reasonable doubt.

16. 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.”

17. On a careful and holistic re-appreciation of the oral and documentary evidence on record, it is manifest that the learned trial Court has framed the charges correctly and upon due evaluation of the evidence, recorded a reasoned finding. The prosecution evidence discloses that a quarrel took place at the time when the police personnel had gone to Village Patrapali for service of notice, resulting in simple injuries to the parties. The

learned trial Court, after meticulous appreciation of the testimonies of all prosecution witnesses and the medical evidence, found the prosecution version to be insufficient to establish the guilt of the accused beyond reasonable doubt and accordingly acquitted them of the major charges, while convicting them only under Section 323 read with Section 149 IPC.

18. In view of the principles laid down by the Hon'ble Supreme Court in ***Mallappa*** (*supra*) the view taken by the learned trial Court is a legally plausible view. Also, in an appeal against acquittal, where two views are reasonably possible, the view favourable to the accused must ordinarily be adopted. Interference is justified only when the findings of the trial Court are shown to be perverse, illegal or based on a manifest misappreciation of evidence. Having regard to the limited scope of interference in an appeal against acquittal, we find no illegality or irregularity in the conclusions recorded by the learned Trial Court. No such infirmity is demonstrated in the present case so as to warrant interference.
19. Consequently, the appeal, being devoid of merit, is liable to be dismissed and is accordingly dismissed at motion stage itself.

Sd/-

(Rajani Dubey)

JUDGE

Sd/-

(Radhakishan Agrawal)

JUDGE