



2026:CGHC:9753



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 305 of 2025**

Bhojraj Narwani S/o Late Lakkhumal Narwani Aged About 60 Years R/o
 Chaantapara, Police Station Civil Line Behind Main Post Office Distt.
 Bilaspur Chhattisgarh

... Appellant**versus**

1 - Shivkumar Chandra S/o Awadhram Chandra Aged About 54 Years Head
 Constable - District Police Force, Bilaspur Chhattisgarh

2 - Dhanesh Sahu S/o Late C.R. Sahu Aged About 48 Years Constable -
 District Police Force, Bilaspur Chhattisgarh

3 - Brajesh Singh S/o Late M.L. Thakur Aged About 51 Years Constable
 District Police Force, Bilaspur Chhattisgarh

4 - State Of Chhattisgarh Through District Magistrate District Raigarh
 Chhattisgarh

... Respondents

(Cause title taken from Case Information System)

For Appellant	:	Mr. Vipin Punjabi, Advocate
For Respondents No.1 to 3	:	Ms. Shriya Jaiswal, Advocate
For Respondent No.4/State	:	Mr. Ashutosh Trivedi, Panel Lawyer



Hon'ble Shri Justice Ravindra Kumar Agrawal

Order on Board

24/02/2026

1. The appellant/complainant has filed the present acquittal appeal against the impugned judgment of acquittal dated 23.08.2023, passed by learned First Additional Sessions Judge, Bilaspur, in Criminal Appeal No. 279 of 2018, whereby the appeal filed by the respondents No.1 to 3/accused persons have been allowed and they have been acquitted from the offence of Sections 294, 323/34 and 451 of IPC.
2. The appellant/complainant had filed a criminal complaint case before the learned Judicial Magistrate First Class, Bilaspur under Section 200 of the CrPC against the respondents No. 1 to 3/accused persons for commission of the offence under section 294, 323 and 451 of IPC. It is alleged in the complaint that he was running an small shop and obtained license No. 255 from the Food Department of the Government for sale of kerosene oil at its fixed area mentioned in the license. On 28.07.2010, at about 2:45 PM, the respondents No. 1 to 3, who are the Head Constables of Police services, came to his shop and misbehaved and abused the hawker and alleged that he was engaged in illegal dealing of the kerosene. The hawker informed the complainant and when he went there they have also been threatened by the respondents No. 1 to 3 and alleged that they are engaged in black marketing of kerosene oil. When the complainant tried to pacify them and shown them the license to sell the kerosene and stock register, they did not hear his explanation and again started abusing with filthy language. They also threatened him that they were the



officers of Crime Branch and having right to search of the premises of the complainant and searched the storage godown of the complainant. Despite having not found any irregularities in the stock of the kerosene oil, they misbehaved and abused him and persisting their demand of extort money. The complainant denied to give them the extort money. The respondents No. 1 to 3 forcefully entered the shop and started searching about storage of kerosene oil and thereby they committed offence of criminal trespass. He immediately informed the incident to the Superintendent of Police in his mobile phone and also orally informed the Crime Branch Incharge Police. They assured him to take action against the erring person and since no action has been taken, he made a complaint to D.G.P. and I.G. Police on 02.08.2010. He also made reminder complaint on 08.09.2010 to the I.G. Police, Bilaspur and Superintendent of Police, Bilaspur on 16.09.2010. Thereafter, the appellant/complainant has filed the complaint case before the learned trial Court.

3. The learned trial Court registered the complaint case on 20.05.2011 and process was issued to the respondents No. 1 to 3. After their appearance before the learned trial Court the details of offence have been explained to the respondents No. 1 to 3 on 25.04.2012. The evidence of the complainant's witnesses were recorded and he examined 05 witnesses in his support. Statements of the accused persons under section 313 of CrPC have also been recorded, in which they denied the circumstances, that appears against them, pleaded innocence and have submitted that they received secret information about black marketing of the kerosene oil and since they



posted in Crime Branch, they searched the storage godown of the complainant, however no any illegal storage of kerosene was found and they came back. The complainant has filed the complaint only to restrain the police authorities for further inspection of his storage godown. The accused persons also examined 02 defence witnesses.

4. After considering the evidence produced by the parties, the learned trial Court vide its judgment dated 24.11.2018, convicted the respondents No. 1 to 3/accused persons for the offence under sections 294, 323/34 and 451 of IPC and sentenced for R.I. for one month, six months and one year respectively with fine sentence.
5. The judgment of conviction and sentence were challenged by the respondents No. 1 to 3/accused persons by filing their Criminal Appeal No. 279 of 2018 before the learned First Additional Sessions Judge, Bilaspur which is allowed on 23.08.2023 and the respondents No. 1 to 3/accused persons have been acquitted from the alleged offenses and the judgment and decree passed by the learned trial Court is set aside. Hence this acquittal appeal.
6. Learned counsel appearing for the appellant/complainant would submit that, the learned Appellate Court has erred in acquitting the accused persons by not considering the evidence available on record in its right perspective. The learned Appellate Court has erred in holding that the respondents No. 1 to 3/accused persons were posted in the Crime Branch Bilaspur and in the course of their duty, they proceeded for patrolling. During the proceeding, they received a secret information and on the basis of secret information, they searched the storage godown of kerosene oil of the complainant.



There is no duty certificate or departure Rojnamcha produced by the prosecution which shows that they were on duty and in discharging of their duties, they searched the godown of the complainant. They exceeded their jurisdiction and powers, made extort money demand and abused the complainant, which is beyond their duty. He would further submit that the learned Appellate Court had erroneously considered that, even if some altercation took place between the complainant and accused persons, the alleged incident of abusing is occurred inside the godown, which is not the place within the public view and public place, therefore, the offence under Section 294 of the IPC would not be made out. The learned Appellate Court has also erroneously considered that, there are inconsistency in the words uttered by the accused persons and that the report has been lodged after a long delay. It is further submitted that, the complainant had averred in his complaint that the accused persons have committed marpeet with Vishnu Sahu (PW-4), but the said witness Vishnu Sahu has not made any allegation that was being assaulted by the accused persons. It is also submitted that the learned Appellate Court has further erroneously considered that the accused persons in discharge of their duties, searched the godown of the complainant and he himself opened the godown and there is no offence of any house trespass in order to commit any offence and the sanction for prosecution is required for their prosecution. The judgment passed by the learned Appellate Court suffers from perversity and illegality and the same is liable to be set aside.



7. On the other hand, learned counsel appearing for the respondents No. 1 to 3/accused persons supported the impugned judgment of acquittal and submitted that after adverting the entire facts and circumstances of the case and the evidence available on record, rightly passed its judgment and acquitted the respondents No. 1 to 3/accused persons. There are material discrepancies in the evidence of complainant's witnesses and the learned Appellate Court has rightly exercised its jurisdiction and acquitted the respondents No. 1 to 3/accused persons holding that the complainant failed to prove his case beyond reasonable doubt. They would further submit that the respondents No. 1 to 3/accused persons were discharging their duties and in the course of their duties, they searched the storage godown of the complainant and they have not committed any offence. The well reasoned and well merited judgment is not liable to be interfered with in view of the principles laid down by the Hon'ble Supreme Court with respect to appeal against acquittal. In support of their case, she would rely upon the judgment of Hon'ble Supreme Court in the case of "**State of Rajasthan Vs. Kistoora Ram**, 2022 SCC OnLine SC 984.
8. I have heard learned counsel for the parties and perused the record of the learned trial Court as well as learned Appellate Court.
9. Upon hearing learned counsel for the parties and on careful perusal of the records of the trial Court as well as the appellate Court, it is evident that on the date of the incident i.e. 28.07.2010, the respondents No. 1 to 3/accused persons were serving as public servants in the police department. The Rojnamcha Sanha entries No.



501 and 503 clearly reflect that they had departed for crime detection duty and returned thereafter in due course. Even as per the complainant's own version, the respondents had disclosed themselves to be members of the Crime Branch and had proceeded to inspect the godown on the basis of information regarding alleged illegal storage of kerosene. Thus, their presence at the spot and the act of inspection prima facie appear to be in discharge of their official duties.

10. Though the complainant has alleged that the respondents No. 1 to 3 trespassed into the premises, abused him, assaulted him and demanded illegal gratification, a careful appreciation of the evidence on record reveals that such allegations are not substantiated by cogent and reliable evidence. There are material inconsistencies in the testimony of the complainant and his witnesses. Notably, the alleged victim of assault, Vishnu Sahu, has not supported the case of the complainant regarding any assault. Similarly, the allegation of demand of illegal money is not corroborated by any independent or supporting witness. On the contrary, the defence witnesses have categorically stated that no incident of assault or abuse took place, thereby rendering the prosecution version doubtful.
11. It is also to be noted that even if the search conducted by the respondents No. 1 to 3 is assumed to be not strictly in conformity with the provisions of Sections 165 and 100 of the Cr.P.C., mere procedural irregularity or excess in exercise of authority would not ipso facto render their acts wholly illegal or criminal in nature. The settled legal position is that if there exists a reasonable nexus



between the act complained of and the discharge of official duty, prior sanction under Section 197 of the Cr.P.C. is a sine qua non for prosecution. In the present case, such nexus is clearly discernible, as the alleged acts arose in the course of inspection of the complainant's godown. Admittedly, no such sanction was obtained, thereby vitiating the prosecution.

12. In view of the aforesaid analysis of facts, evidence and settled principles of law, particularly the limited scope of interference in an appeal against acquittal, this Court is of the considered opinion that the judgment of acquittal passed by the appellate Court is based on a plausible and legally sustainable view. No perversity, illegality or gross misappreciation of evidence is demonstrated so as to warrant interference. Accordingly, no case is made out for reversing the acquittal of the respondents No. 1 to 3/accused persons.
13. Recently, applying the law governing the scope of interference in an appeal against acquittal, the Hon'ble Supreme Court in the case of **State of Rajasthan Vs. Kistoora Ram**, 2022 SCC OnLine SC 984, has held as follows:

"8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all."



14. Further, in case of **Jafarudheen and Others Vs. State of Kerala**, 2022 (8) SCC 440, the Hon'ble Supreme Court has considered the scope of interference in appeal against acquittal in judgment at para 25, which reads as under :-

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that ensures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

15. After considering the material available on record as well as the well-reasoned judgment passed by the learned trial court and being very much conscious of the existing legal position as held in case of **Kistoora Ram** (Supra) and **Jafarudheen** (Supra) that in an appeal against acquittal if two views are possible on the basis of the evidence led by the prosecution and the trial court taking one view favoured the accused, reversion of the findings of acquittal by the appellate court taking the other possible view into consideration, is not permissible in law. Further, an order of acquittal is not to be interfered with lightly unless it is grossly perverse, there has been



serious miss-appreciation of evidence or non-consideration of material evidence and witnesses. If the view taken by the Trial Judge is a possible view, the Appellate Court will not interfere only because another view may also be possible. It is for the prosecution to lead the best evidence and prove the charges beyond reasonable doubt.

16. Thus, in the given facts and circumstances of the case, this court has no hesitation in reaching to the conclusion that the court below has not committed any illegality or infirmity while reaching to the conclusion of acquittal of the respondent-accused from the commission of offence under Sections 294, 323/34 and 451 of IPC.
17. The appeal being devoid of merit is liable to be and is hereby **dismissed**.

Sd/-
(**Ravindra Kumar Agrawal**)
Judge

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