



2026:CGHC:4095-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 169 of 2017

1 - State of Chhattisgarh Through The Station House Officer, Police Station Bhansi, District South Bastar Dantewada Chhattisgarh

... Appellant

versus

1 - Ashu @ Panta Padami S/o Pandu Padam, Aged About 25 Years R/o Village Padampara, Bechapal, Police Station Mirtur, District- Bijapur Chhattisgarh.

2 - Raju @ Gori Karam S/o. Mangu Karam, Aged About 27 Years R/o Village Adasmetta, Sarpanchpara, Police Station Ganglur, Andalpara, District Bijapur Chhattisgarh.

3 - Lachchu @ Bakal Kunjami S/o Churra Kunjami, Aged About 38 Years R/o Village Chidamagunda, Sarpanchpara, Polic Station Gangalur, District- Bijapur Chhattisgarh

4 - Panchu Bhaskar S/o. Shatru Bhaskar, Aged About 22 Years R/o Village Basanpur Schoolpara, Police Station Bhansi, District- South Bastar, Dhantewada Chhattisgarh

5 - Mangal Bhaskar S/o. Sukman Bhaskar, Aged About 21 Years R/o. Village Kamalur, Sarpanchpara, Police Station Bhansi, District-South Bastar, Dantewada Chhattisgarh

6 - Rajesh Bhaskar S/o. Late Sudru Bhaskar, Aged About 20 Years R/o. Village Kamalur, Sarpanchpara, Police Station Bhansi, District-South Bastar, Dantewada Chhattisgarh , District : Dantewada, Chhattisgarh

... Respondent(s)

For Appellant	:	Mr. Atanu Ghosh, Dy. G.A.
For Respondent No.6	:	Mr. Govind Dewangan, Advocate

Hon'ble Smt. Justice Rajani Dubey

Hon'ble Shri Justice Radhakishan Agrawal
Judgment on Board

Per Rajani Dubey, J.

23/01/2026

1. The present appeal has been preferred by the appellant challenging the judgment dated 18.01.2017 passed by the learned First Additional Sessions Judge, District- South Bastar, Dantewada (C.G.), in Sessions Trial No. 230/2015, whereby the learned trial Court acquitted the respondents of the charges under Sections 148, 307/149 of IPC and Section 25 (1-B)(A), 27 (1) of Arms Act.
2. Briefly stated, the prosecution case is that on 21.02.2015, pursuant to the directions of the Superintendent of Police, the complainant Vinod Kumar Tiwari, then posted as Sub-Inspector at Police Station Dantewada, along with a police contingent

comprising Sub-Inspector Anant Pradhan, 46 constables, CAF 9th Battalion Platoon Commander Kartik Salam, 01 PC, 02 APCs, 04 Head Constables and 45 Inspectors, was deployed to provide security to the Railway Department for restoration work after a Naxalite attack, in which two goods locomotives with their bogies were destroyed and a mechanical vehicle was set on fire near Railway Track Tower No. 422, Village Jhirka, Police Station Bhansi. After restoration of railway traffic, while the police party was returning with the railway staff and passing through the railway track near Village Jhirka, Police Station Maasi, about 20 Naxalites, some in uniform and others in civilian attire, armed with weapons including bows and arrows, attacked the police party with the intent to kill and loot weapons. The police party retaliated in self-defence, whereupon the Naxalites fled into the dense forest. As it was evening and considering security concerns, the police party returned safely to the police station and made a diary entry vide Sanha No. 1523 at 19:30 hours. As per villagers, the Naxalite group was allegedly led by Kamalu and Sanjay. Since the incident pertained to Police Station Bhansi, a zero FIR was registered at Dantewada Police Station under Sections 307, 147, 148, 149 of the IPC and Sections 25 and 27 of the Arms Act which was forwarded to Police Station Bhansi for numbering, where it was registered as Crime No. 04/2015.

Upon completion of investigation, Charge-sheet No. 17/2015 was filed before the Court of Judicial Magistrate First Class,

Bacheli on 28.10.2015, registering Criminal Case No. 105/2015, titled *State v. Asu @ Panta Padami and others*, which being triable by the Sessions Court, was committed on 08.12.2015. The learned Sessions Court registered Sessions Trial No. 230/2015 on 18.12.2015. During trial, prosecution evidence commenced on 02.09.2016. Meanwhile, a supplementary charge-sheet No. 17-A/2015 against co-accused Bhima Telami was filed before the Sessions Court on 22.01.2016, and another supplementary charge-sheet No. 17-B/2015(16) against co-accused Pandu Kunjam, Kumaru Atra and Deva Telam was submitted on 25.06.2016. The cases of the said co-accused were clubbed with the original Sessions Trial No. 230/2015 and tried together. Thereafter, the learned trial Court framed the charges against the accused, to which accused pleaded not guilty and claimed trial.

3. In order to bring home the guilt of the accused/respondents, the prosecution examined as many as 19 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.
4. Upon due appreciation of the oral and documentary evidence on record, the learned the trial Court acquitted the accused of the charges under Sections 148, 307/149 of IPC and Section 25 (1-B) (A), 27 (1) of Arms Act. Hence, this acquittal appeal.

5. Learned counsel for the appellant submits that the learned Trial Court has passed the impugned judgment in a cryptic, laconic and mechanical manner, without proper appreciation of the material and evidence available on record. The impugned judgment is bad in law, having been passed without due consideration and evaluation of the prosecution evidence on record. The learned Trial Court failed to appreciate that the prosecution witnesses are natural, reliable and trustworthy and have consistently narrated the true version of the incident. The learned Court below overlooked the overwhelming prosecution evidence which establishes the case against the respondents beyond reasonable doubt, and instead passed the impugned judgment in a perfunctory and mechanical manner, rendering the same unsustainable in law. While passing the impugned judgment (Annexure A/1), the learned Court below failed to properly appreciate the testimony of PW-1 Vinod Kumar Tiwari, In-charge, Police Station Geedam, District Dantewada (C.G.), who clearly proved the incident and fully supported the prosecution case. The learned Trial Court erroneously ignored and disbelieved the cogent and corroborative evidence of prosecution witnesses namely Mehattar Atami (PW-2), Santosh Diwan (PW-3), Taleshwar Patel (PW-4), Santosh Kashyap (PW-5), Kuleshwar Sonkar (PW-6) and other witnesses, by giving undue weight to minor omissions and trivial contradictions, which is contrary to settled principles of criminal jurisprudence. The impugned

judgment suffers from non-application of mind, as the learned Trial Court failed to consider the prosecution case in its entirety and the evidence collected against the respondents, thereby rendering the judgment perverse and liable to be set aside. For the foregoing grounds, the impugned judgment of acquittal is unjust, improper, perverse and contrary to law and therefore deserves to be set aside in the interest of justice.

6. On the other hand, learned counsel for the respondent No.6 submits that the impugned judgment of acquittal has been passed after due appreciation of the entire evidence on record. It is a settled principle of law that when two views are possible, the appellate Court should not interfere with a well-reasoned order of acquittal. The findings recorded by the learned Trial Court are neither perverse nor illegal and call for no interference. Hence, the appeal deserves to be dismissed.
7. Heard counsel for the parties and perused the material placed on record.
8. From the record of the learned Trial Court, it is evident that charges under Sections 148 and 307 read with Section 149 of the IPC and Sections 25(1-B)(A) and 27(1) of the Arms Act were framed against the respondents. Upon due appreciation of the oral as well as documentary evidence on record, the learned Trial Court acquitted the respondents of all the charges levelled against them.

9. It is further apparent that although the prosecution examined 19 witnesses, none of the independent witnesses supported the prosecution version.
10. Sub-Inspector Vinod Kumar Tiwari (P.W.-1) deposed that on 21.02.2015, pursuant to the directions of the Superintendent of Police, Dantewada, he proceeded along with the police force to provide security to the Railway Department near Railway Track Tower No. 422, Village Jhirka, following damage caused to railway property by Naxalites. He further stated that while returning the next day, approximately 20 Naxalites opened fire near Village Jhirka, compelling the police personnel to retaliate in self-defence, whereafter the Naxalites fled into the forest. Subsequently, he lodged the FIR (Ex. P/1) and admitted his signature thereon from A to A.
11. Assistant Constable- Mehatarram Atami (P.W.-2) stated that the accused had not mentioned before him that any property was seized. He further stated that when he was shown the memorandum (Ex.P/3) and the seizure memo (Ex.P/4), he admitted the same from A to A part.
- Prosecution declared him hostile and cross-examined him but he denied all suggestions of the prosecution.
12. Assistant Constable- Satosh Diwan (P.W.-3) stated that accused Asu Podiami was interrogated by the Inspector-in-Charge of Police Station Bacheli, during which interrogation the accused disclosed that he had burnt four machines at Akash Nagar,

uprooted the railway track near Bhaansi, set fire to two trucks and opened fire upon the police force. The witness further stated that pursuant to the said disclosure, a plastic shovel and a tank were seized at the instance of the accused near Railway Station, Bacheli. He admitted his signature on memorandum statement (Ex. P/3) and the seizure memo (Ex. P/4).

Further he admitted this suggestion of defence that the accused Ashu was fleeing after noticing the presence of the police force. He further admitted that the articles found lying at the place from where the accused attempted to escape were seized in the name of the accused.

13. Toleshwar Patel (P.W.-4), Santosh Kashyap (P.W.-5), Kamlu Kunjam (P.W.-8), Yogesh Kunjam (P.W.-9), Tati Mukesh (P.W.-13), Kumma Telami (P.W.-14), Bhima Telami (P.W.-15), Arti Mandavi (P.W.-16) and Budhram Telam (P.W.-17) did not support the prosecution case during trial. Consequently, the prosecution declared them hostile and subjected them to cross-examination; however, they denied the material suggestions put forth by the prosecution and merely admitted their signatures on certain documents.

14. Kuleshwar Sonkar (P.W.-6) and Reman Sahu (P.W.-7) stated that the police force was returning after completion of the repair work, whereupon the Naxalites opened fire on the police force near the railway line at Village Jhirka. He further stated that when the police retaliated in self-defence, the Naxalites fled into the forest.

15. Investigating Officer Rajesh Devdas (P.W.-18) recorded the memorandum statements of the accused. The witness stated that Ex.s P/5, P/6, P-7 and P/8 were attested copies attached with the present case and that all such copies had been attested by him. He further stated that the original documents were attached in the original case pertaining to Crime No. 133/2014 of another case.
16. Learned trial Court minutely appreciated oral and documentary evidence and found that in FIR only two names were mentioned and memorandum and seizure witnesses did not support the prosecution case. All independent witnesses did not support the prosecution case, therefore, prosecution has failed to prove its case against the respondents beyond reasonable doubt.
17. 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.”

18. Upon an overall and careful appreciation of the entire oral and documentary evidence on record, this Court finds that the learned Trial Court has undertaken a detailed and reasoned analysis of the prosecution case. The findings of acquittal are founded on

material infirmities in the prosecution evidence, including the limited naming of accused in the FIR, non-support by memorandum and seizure witnesses and the consistent failure of independent witnesses to corroborate the prosecution version.

19. The view taken by the learned Trial Court is a plausible and legally sustainable view, based on proper appreciation of evidence. Merely because another view may be possible, this Court, while exercising appellate jurisdiction, cannot substitute its own opinion in the absence of perversity, illegality or material misappreciation of evidence.
20. In light of the settled principles laid down by the Hon'ble Supreme Court in ***Mallappa*** (*supra*) and considering that no perversity, illegality or miscarriage of justice is demonstrated in the impugned judgment, this Court is of the considered view that the scope of interference with the order of acquittal is extremely limited and no ground is made out for reversal.
21. In view of the above, the finding of acquittal recorded by the learned Trial Court is affirmed and the appeal lacking substance, is dismissed.

Sd/-
(Rajani Dubey)
JUDGE

Sd/-
(Radhakishan Agrawal)
JUDGE