



2026:CGHC:9775



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 136 of 2016**

Ravindra S/o Vishwnath Vishwkarma, Aged About 38 Years, Occupation Carpenter, R/o Village Ramanujganj, Ward No. 5, Thana Ramanujganj, Civil District Surguja, Revenue District Balrampur-Ramanujganj, Chhattisgarh.

... Appellant**versus**

1 - State of Chhattisgarh Through District Magistrate Balrampur, District Balrampur Ramanujganj, Chhattisgarh.

2 - Aashish Kumar S/o Dayashankar Tiwari, Aged About 23 Years,

3 - Dayashankar, S/o Late Baijnath Singh Tiwari, Aged About 60 Years,

4 - Shivendra S/o Late Shaligram Pandey Aged About 56 Years,

5 - Omprakash S/o Late Shaligram Pandey Aged About 48 Years,

R/o Village Ramanujganj, Ward No. 5, Thana Ramanujganj, District Balrampur Ramanujganj, Chhattisgarh.

... Respondents

For Appellant	:	Mr. Sanjay Agrawal, and Mr. Ashutosh Raj Sinha, Advocates
For Respondent No.1/State	:	Mr. Ramnarayan Sahu, Dy. G.A.
For Respondent No.2 to 5	:	None

Hon'ble Shri Justice Radhakishan Agrawal**Judgment on Board****24.02.2026**

1. This acquittal appeal filed by the appellant/complainant arises out of the judgment dated 16.10.2015 passed by the learned Additional Judge



to the Court of Additional Sessions Judge, Ramanujganj, District Surguja, Chhattisgarh in Criminal Appeal No. 40/2015, arising out of the judgment dated 16.04.2015 passed by the Judicial Magistrate First Class, Ramanujganj, District Balrampur, Chhattisgarh whereby the learned trial Court convicted the accused persons, namely, Ashish and Shivendra, under Sections 323 (three counts) and 294 of the IPC and sentenced them to payment of fine of Rs. 500/- on each count. The other accused persons, namely, Dayashankar and Omprakash, were convicted under Section 294 of the IPC and sentenced to payment of fine of Rs. 500/- each. In default of payment of fine, they were directed to undergo additional rigorous imprisonment for one month (three counts), 15 days, and 15 days respectively. The learned Appellate Court, vide judgment dated 16.10.2015, acquitted the accused persons Dayashankar, Shivendra, and Omprakash of the aforesaid charges, and maintained the conviction of Ashish Kumar only under Section 323 of the IPC for causing injury to Deendayal and acquitted him of charge under Section 323 (2 counts) and Section 294 of IPC.

2. Case of the prosecution, in brief, is that the complainant filed a complaint stating that a long-standing land dispute exists between the complainant and the accused persons, and a civil suit in that regard is pending adjudication. It is alleged that on 11.03.2008, at about 07:00–07:30 PM, the complainant's son, Deendayal @ Chhotu, was proceeding from his house when accused Ashish Tiwari intercepted him on the road and assaulted him with fists and blows. Upon hearing his cries, the complainant reached the spot and intervened, whereupon accused Ashish Tiwari also assaulted the complainant. At the same time, the complainant's wife, Smt. Reena Vishwakarma, arrived at the



place of occurrence. Accused Shivendra Pandey and Ashish allegedly pushed her to the ground. As a result of the said assault by the accused persons, the complainant, his wife and his son Deendayal suffered injuries on their bodies. It is further alleged that the other accused persons also used filthy language over the complainant and his family. On the basis of the above complaint, offence was registered against the accused persons.

3. Statements of the witnesses were recorded and after completing investigation, charge sheet was filed against the accused persons before the concerned trial Court. Accused persons abjured the guilt and prayed for trial.
4. The trial Court, after hearing counsel for the parties and appreciating the evidence on record, convicted the accused persons as mentioned above. However, learned Appellate Court vide order dated 16.10.2015 acquitted the accused persons, however, convicted Ashish Kumar for the offence as mentioned in paragraph 1 of this judgment. Hence, this Appeal.
5. Learned counsel for the appellant/complainant submits that the trial Court has erred in acquitting the accused persons of the said charges by recording perverse findings. He further submits that there is evidence on record, particularly the testimony of injured Deendayal Vishwakarma (PW-05), Vishwanath Vishwakarma (PW-03) who is the father of Ravindra, to establish that the accused persons have assaulted and used filthy language against them. As such, despite the availability of sufficient evidence on record, the learned trial Court as well as the learned Appellate Court committed a grave error in



acquitting the accused persons. Therefore, the impugned judgment of acquittal suffers from perversity and illegality and is liable to be set aside.

6. On the other hand, learned State counsel would support the impugned judgment.
7. I have heard learned counsel for the parties and perused the material available on record.
8. The Supreme Court in the matter of *Jafarudheen and others vs. State of Kerala reported in (2022) 8 SCC 440* has considered the scope of interference in Appeal against acquittal, which reads as under:-

“25. While dealing with an appeal against acquittal by invoking Section 378 CrPC, the appellate court has to consider whether the trial court's view can be terms as a possible one, particularly when evidence on record has been analysed. 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 enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

9. The question for consideration is whether the findings recorded by the Appellate Court suffer from perversity warranting interference.
10. Injured Dindayal Vishwakarma (PW-5) has stated in his deposition that on the date of incident i.e. 11.03.2008 when he had gone towards the ground for defecation in the evening, at that time, the accused Ashish assaulted him and when his father Ravindra came there and opposed the same, then the accused Ashish also assaulted his father, then, Bigan and Sunil came there and intervened. However, Bigan (PW-4) in his cross-examination, has categorically admitted that he has not seen the



alleged *marpeet* committed with the injured persons, as such, he has not supported the case of the prosecution. This apart, Sunil who is said to have intervened, has also not been examined by the prosecution.

11. Complainant/injured Ravindra Kumar Vishwakarma (PW-1), in his deposition, stated that on the date of the incident, accused Ashish assaulted his son Deendayal. When he and his wife Reena intervened, the accused also assaulted them, causing injuries. He further deposed that he went to Police Station Ramanujganj to lodge a report regarding the incident, but the police did not take any action. Thereafter, he approached the office of the Superintendent of Police and submitted a written complaint. However, in his cross-examination, this witness admitted that on the date of the incident he had not gone to the police station. He also admitted that the Police Station Ramanujganj and the Government Hospital are situated opposite each other. Although he stated that he submitted a written complaint (Ex.P-1), the same was received in the office of the Superintendent of Police on 13.03.2008, whereas the alleged incident occurred on 11.03.2008. Thus, there is a delay of two days in lodging the written complaint. In view of these admissions, the testimony of this witness appears to be doubtful and unreliable, as it suffers from material contradictions and omissions.

12. Injured Reena Devi (PW-2), in her testimony, stated that on the date of incident, in the evening, when her younger son Deendayal had gone to attend the call of nature, accused Ashish assaulted him. She further deposed that on the same day at about 10:00 PM, they went to Police Station Ramanujganj to lodge a report. However, in her cross-examination, she admitted that a property dispute has been ongoing



between her father-in-law and the accused persons since prior to her marriage and that the dispute is still continuing. Her statement regarding lodging of the report at the police station is not duly corroborated by the testimony of her husband, Ravindra Kumar (PW-1).

13. Vishwanath Vishwakarma (PW-3), who is the father of the complainant Ravindra Vishwakarma, has stated in his examination-in-chief that on the date of the incident, accused Ashish assaulted his grandson Deendayal. However, in his cross-examination, this witness admitted that a civil dispute has been pending between him and the accused persons since the year 1982. He further admitted that the said civil suit had been dismissed by the trial Court as well as by the Court of the learned Additional District Judge, and at the relevant time, the matter was pending before the High Court. He also categorically admitted that he had not witnessed the alleged incident. In view of these admissions, his testimony is hearsay in nature and does not materially advance the case of the prosecution.

14. On careful perusal of the statements of the above-mentioned witnesses, it appears that a civil dispute had been pending between the parties for a long time, and therefore, there existed prior enmity between the complainant and the accused persons. Further, the statements of the aforesaid witnesses are not duly corroborated with each other, as there are material contradictions and omissions in their testimonies. Moreover, the evidence on record indicates that there was a delay in lodging the written complaint by the complainant. This apart, no M.L.C. report is available on record to establish the nature and extent of the injuries allegedly sustained by the injured persons. As such, the learned



Appellate Court after considering the statement of the injured witness Deendayal (PW-5) and other evidence available on record convicted only accused Ashish Kumar under Section 323 of IPC for causing injury to Deendayal (PW-5) and acquitted the other accused persons from the other charges, which is on the basis of the proper appreciation of the evidence available on record and the same does not call for any interference.

15. After considering the material available on record as well as the elaborate judgment passed by the Appellate Court, I am of considered opinion that the judgment impugned passed by the Appellate Court is just and proper and does not call for any interference.

16. Accordingly, the present acquittal appeal filed by the appellant/complainant, being devoid of merit, is hereby dismissed.

Sd/-
(Radhakishan Agrawal)
Judge