2025:CGHC:50318-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 456 of 2010

State of Chhattisgarh

... Appellant

versus

1 - Deepak Phabyani S/o Shri Dalit Ram, aged about 27 years R/o Manjhapara, Kanker Police Station and District Kanker, Chhattisgarh

2 - Upendra Surojiya S/o Shri Chandrika Prasad, aged about 28 years R/o Keshkal, Police Station - Keshkal, District - Bastar (C.G.)

3 - Vijay Kumar Soni S/o Shri Latel Ram, aged about 25 years Thelkabod, Police Station and District - Kanker (C.G.)

4 - Bhuneshwar Sahu (Died and Deleted) as per Hon'ble Court Order Dated 06-01-2025 and 10-02-2025

5 - Jiyant Walyani (Died and Deleted) as per Hon'ble Court Order Dated 28-09-2012

6 - Phaiju Mohammed @ Phiju (Died and Deleted) as per Hon'ble Court Order Dated 28-09-2012

7 - Manoj Sahu S/o Ramratan Sahu, aged about 23 years R/o Sanjay Nagar, Kanker, Police Station And Distirct - Kanker (C.G.)

8 - Liyakat @ Likku S/o Shri Ahmed Ali, aged about 28 years R/o Bhandaripara, Kanker, Police Station And District - Kanker (C.G.)

... Respondents

For State/Appellant	:	Mr. Shashank Thakur, Dy. Adv. General
For Respondent No. 1	:	Ms. K. Tripti Rao, Advocate
For Respondent No. 2	:	Ms. Bhavika Kotecha, Advocate
For Respondent Nos. 3 & 8	:	Mr. Shobhit Koshta, Advocate
For Respondent No. 7	:	Mr. Rajkumar Pali, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

***Per* Ramesh Sinha, Chief Justice**

09.10.2025

1. As during pendency of present Acquittal Appeal filed by the State, accused/respondent Nos. 4 Bhuneshwar Sahu No. 5 Jiyant Walyani and No.6 Phaiju Mohammad @ Phiju have been died and their names have already been deleted and as such, the present appeal is being considered only for accused/ respondent Nos.1 Deepak Phabyani, No.2 Upendra Surojiya, No.3 Vijay Kumar Soni, No.7 Manoj Sahu and No.8 Liyakat @ Likku.

2. This Acquittal Appeal under Section 378 (1) of the Criminal Procedure Code has been filed by the State/appellant challenging the legality, validity and propriety of judgment dated 10.04.2003 passed by the learned Second Additional Sessions Judge Kanker (C.G.) in Sessions Trial No.69/1998, whereby the learned trial Court has acquitted the accused/respondents of the charges punishable under Sections 302, 120-B, R/w Section 302, 404 R/w Section 34 and 201 of IPC giving benefit of doubt holding that the prosecution has failed to prove its case beyond reasonable doubt.

3. The prosecution story is not described in the charge sheet in the required detail. Based on the police statements and other documents filed with the case, the prosecution story, as detailed as possible, is as follows:

   (1) The deceased, Parameshwar Rao had been working as a *Munim* in the shop named Laxmi Traders, a wholesale grocery store in Jagdalpur owned by witness Trinath Rao

(PW-19), for about 2-3 years prior to October 1997. In order to recover the price of goods sold on credit by the firm, the deceased frequently used to go to Kanker, Bhanupratappur, Dhamtari, Bilaspur, and Raipur, collect the money, bring it to Jagdalpur, and deposit it with the firm.

(2) Deceased Parameshwar Rao, during his visit from 06.10.1997 to 08.10.1997, collected from various shopkeepers in Raipur, Bilaspur, and Dhamtari, a total of Rs.1,07,696/- payable to Trinath's Laxmi Traders, Jagdalpur, for goods sold on credit, and a draft of Rs.15,300/- from the firm of Lilaram Danumal of Raipur. He kept all this money and draft in his briefcase and returned to Kanker on 08.10.1997 and stayed at the Mother India Lodge of accused Jiyant Walyani. For security reasons, he kept the money and draft in a briefcase and got the briefcase kept at the shop of accused Deepak, Vinod Traders and on the same night informed his partner Trinath over phone that he was staying at Mother India Lodge, Kanker, after collecting Rs. 1,06,000/- in cash and a draft of Rs.15300/- and on 09.10.1997 he would go to Bhanupratappur, collect the remaining amount and return to Jagdalpur the same night.

(3) On the night of 08.10.1997 at 9-10 pm, accused Deepak, Faizu, Likku alias Liaqat, Rinku, absconded accused Ajay, Vijay, Manoj took the deceased from Mother India Lodge to the hill behind RES Colony. There they killed

him by hitting him with a stick or a knife and strangulating him. They also burnt his body by pouring petrol on it. After this all the accused returned to their homes. On 09.10.1997 accused Deepak took out Rs. 1,06,000/- from the briefcase of the deceased kept at his house and all this money was divided among all the above accused. The empty briefcase, papers, clothes of the deceased, bag, briefcase pocket, toothpaste, diary of the deceased were burnt and thrown away through the death accused Kundan near the pond of Nathia village and Kosafarm. Deepak also torn the draft of Rs. 15,300/- found in the briefcase and threw it on the roadside of Bhandari Para. He kept Rs. 46,000/- of his share of the money at home. He gave Rs. 6,400/- to his brother Vinod and a total of Rs. 10,800 to Jaggu, Krishna Kumar, Abdul Gaffar, Mohammad Farooq, Mohammad Hanif, etc. to repay their debts. Thus, from the money stolen from the deceased's briefcase, the accused Deepak used a total of Rs. 63,200/-. These amounts were later seized from them. Based on information provided by accused Deepak, a torn draft of Rs.15,300/- taken from the briefcase case was also recovered. On this basis, accused Deepak is being held guilty of these crimes.

(4) Accused Phaiju Mohammad @ Phiju threw the knife used in the crime into the pond, kept the purse and the papers taken from the pant of the deceased in his house,

and gave the blood-stained clothes to accused Manoj Sahu. He kept the knife safely used in the murder with Janab Ali, and hid the deceased's comb in the soil. All these items were seized on 27.10.1997, based on information provided by accused Phaiju. Chemical tests of this knife and the clothes thrown by accused Manoj Sahu confirmed blood on it. On 27.10.1997, witness Trinath, during an identification test conducted with other similar items, identified the purse seized from Phaiju as belonging to the deceased. Thus, the prosecution claims that Faizu has been proven guilty of these crimes.

(5) Accused Manoj, had thrown the blood-stained pants and shirt given to him by Phaiju at the time of the murder into a pond in Kanker, which were recovered at his instance 29.10.1997. Thus, Manoj's charge is proved.

(6) The prosecution case against accused Liyakat @ Likku is that he had kept Rs. 4900/- out of the money obtained in this crime in his house, which was seized from his mother on 01.11.1997 from his house.

(7) The charge against the accused Jiyant Walyani and his lodge waiter Bhuneshwar Sahu is that they have committed an offence punishable under Section 201 of the IPC by falsely mentioning in the lodge register that the deceased was beheaded on 09.10.1997 and thereby trying to save other criminals from the punishment of the alleged

offence.

(8) All the accused denied the charges and claimed innocence, but none of them produced any substantial evidence in their defence. The common defence of all the accused is that Deepak was falsely implicated on the basis of suspicion, and the remaining accused were falsely implicated being friend of accused Deepak by Trinath (PW-19) and his brother Prabhakar (PW-8) with the connivance of the Investigator, in order to recover the money looted from the deceased. To succeed in this case, Trinath employed a lawyer from his hometown, 150 km away, took advice from this lawyer, and tried to get them punished by getting himself, his nephew Prabhakar, and his friend Govind Rao to testify as per his advice.

(9) Accused Kundan was dead and as no substantive evidence has been presented against accused Upendra, Surojiya, Vijay Kumar Soni and Liyakat @ Likku and they have been charged solely on the basis of Deepak's alleged statement to the police in Memorandum (Ex.P-11), which is not corroborated by the evidence. Therefore, these three accused have been acquitted by the trial Court, given the benefit of the doubt.

(10) So far as rest accused i.e. Deepak Phabyani, Phiju Mohammad @ Phiju and Manoj Sahu, who were charged under sections 302, 120-B/302 and 404 of the IPC and

accused Jiyant Walyani and his lodge waiter accused Bhuneshwar Sahu, who were charged under section 201 of the IPC are concerned, against whom the prosecution is seeking conviction relying only on "circumstantial evidence" they have also been acquitted by the learned trial Court giving benefit of doubt holding that the prosecution has failed to prove its case beyond reasonable doubt. Hence, this acquittal appeal has been filed by the State.

4. Mr. Shashank Thakur, learned Deputy Advocate General vehemently argued that the impugned judgment of acquittal is bad in law and in facts and circumstances of the case, the learned trial Court failed to appreciate the evidence recorded in the case in its true and correct perspective and succumbed to conjectures and surmises in acquitting the respondents. He further submitted that the learned trial Court failed to appreciate the circumstantial evidence and thus committed grave error in acquitting the respondents by not appreciating the evidence of Prabhakar (PW-8) and Trinath (PW-19) in their correct perspective. He also submitted that the learned trial Court also failed to appreciate that amount, things relating to deceased, weapon of assault and petrol cane were seized from the possession of the accused/ respondents on the basis of information given by them, which was duly supported by the evidence of memorandum and seizure witness Prabhakar (PW-8) and thus, the learned trial Court has committed grave error in acquitting the accused/ respondents

from all the charges levelled against them, which requires interference by this Court.

5. On the other hand, learned counsel, appearing for the respective accused/ respondents support the impugned judgment passed by the learned trial Court and submitted that the learned trial Court, considering the evidence available of record, has rightly acquitted the accused/respondents and as such, the acquittal appeal filed by the State deserves to be dismissed.

6. We have heard learned counsel appearing for the parties, perused the impugned judgment of acquittal and record of the trial Court.

7. This is an appeal against the judgment of acquittal filed by the State under Section 378(3) of the Cr.P.C. In exercising the appellate jurisdiction under Section 378(1) or under Section 378 of the Cr.P.C, the appellate Courts are required to keep in mind that the trial Court had the advantage of looking at the demeanour of witnesses and observing their conduct in the Court especially in the witness-box and also required to keep in mind that even at that stage, the accused was entitled to benefit of doubt. The doubt should be such as a reasonably person would honestly and conscientiously entertain as to the guilt of the accused.

8. As held by the Supreme Court in **C.Antony v. Raghavan Nair**[1]**,** unless the High Court arrives at definite conclusion that the findings recorded by trial Court are perverse, it would not substitute its own view on a totally different perspective and also

1 AIR 2003 SC 182

as held by the Supreme Court in **Ramanand Yadav v. Prabhunath Jha**[2], the appellate Court in considering the appeal against judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference.

9. The scope of interference in appeals against acquittal is well settled. In **Tota Singh and another v. State of Punjab**[3]**,** the Supreme Court has held in para 6 as under:-

> *"…….the mere fact that the Appellate Court is inclined on a reappreciation of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any Court acting reasonably and judiciously and is, therefore, liable to be characterised as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the Court below has taken a view which*

2 AIR 2004 SC 1053

3 AIR 1987 SC 1083

is a plausible one, the Appellate Court cannot legally interfere within an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

10. 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***[4] 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.*"

11. In the matter of **Jafarudheen and others v. State of Kerala**[5], the Supreme Court held as under:

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC. 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

4 2022 SCC OnLine SC 984

5 (2022) 8 SCC 440

> *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."*

12. While exercising the appellate jurisdiction against judgment of acquittal, the High Courts or the appellate Courts are fully empowered to appreciate and reappreciate the evidence adduced on behalf of the parties while reversing the judgment of the trial Court. The appellate Court is required to discuss the grounds given by the trial Court to acquit the accused and then to dispel those reasons.

13. In the light of aforesaid dictum and proposition of law, we have examined the evidence adduced on behalf of the prosecution.

14. To prove the charges levelled against the accused/respondents, the prosecution has examined as many as 22 witnesses and exhibited 50 documents.

15. We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

16. **The first question for consideration would be, whether death of deceased Parmeshwar Rao was homicidal in nature ?**

17. The trial Court, after appreciating oral and documentary evidence available on record particularly relying upon the statement of Dr. R.S. Mandavi (PW-16), who had conducted postmortem over the

dead body of the deceased Parmeshwar Rao vide Ex.P-42A, has come to the conclusion that cause of death of the deceased was homicidal in nature. After hearing learned counsel for the parties and after considering the submissions advanced by learned counsel for the parties, we are of the considered opinion that the finding recorded by the trial Court that death of deceased Parmeshwar Rao was homicidal in nature is the finding of fact based on evidence available on record. It is neither perverse nor contrary to record. We hereby affirm the said finding.

18. In the present case, there is no direct evidence / eyewitness available on record. The case of prosecution is based on the 'circumstantial evidence'. The circumstantial evidence relied upon by the prosecution is based on the following points:-

(i) Accused Deepak in the presence of witness Daulat Phalyani, on 08.10.1997, received the deceased's briefcase for safekeeping. He gave the same briefcase to the deceased accused Kundan on 09.10.1997, in the presence of the same witness.

(ii) On the night of 08.10.1997, accused Deepak along with other accused took the deceased from Mother India Lodge to the place of incident.

(iii) On 16.10.1997, at the place of incident, the body of the deceased was found with weapon injuries and in a burnt condition and petrol cans were also found.

(iv) On 09.10.1997, accused Deepak took out cash of Rs.1,06,000/- and a draft of Rs.15300/- from the briefcase of the deceased and gave the briefcase to the deceased accused Kundun for destruction.

(v) Out of the cash received, accused Deepak gave cash share to accused Phaiju, Liyakat and other accused.

(vi) Out of this stolen amount, accused Deepak hid Rs.46000/- in a briefcase in his house, which was seized from him on 20.10.1997 as per his information.

(vii) Accused Deepak took out a draft of Rs. 15300/- from the briefcase on 09.10.1997 and tore it and threw it on the way to Dudhnadi in Kanker, the pieces of which were seized from the said place on 18.10.1997 on the basis of his prior information.

(viii) Out of the cash recovered from the briefcase of the deceased, accused Deepak gave Rs. 6400/- to his brother Vinod and he repaid loans of Rs. 10800/- to witness Jaggu, Krishna Kumar, Abdul Gaffar, Mohd. Farookh, and Mohammad Hanif, and thus embezzled Rs.63,200/- between 08.10.1997 and 16.10.1997 and the said amounts were seized from these witnesses.

(ix) On 08.10.1997, to go to the place of occurrence, accused Deepak asked for witness Rajesh's motorcycle and took it away, which instead of returning, he left at the

petrol pump and then informed Kishore Ashwani about it and got the motorcycle returned to Rajesh from him.

(x) On 08.10.1997, accused Deepak along with deceased accused Kundan got the deceased's briefcase, bag, papers kept in it, pant-shirt of the deceased, burnt near Ishan forest and Kosafarm in Nathia Navagaon and other articles kept in the briefcase and diary of the deceased were burnt through accused Kundan and after giving prior information about it, on 18.10.1997 itself accused Deepak got the suitcase recovered in burnt condition and half burnt receipts, buttons, lock-key etc. kept in it.

(xi) Accused Manoj Sahu dipped the blood stained pants of accused Phaiju in the pond and got them recovered from there, in which blood was found in the chemical examination.

(xii) While committing the murder, accused Phaiju got the clothes stained with the blood of the deceased by accused Manoj, on which blood is proved.

(xiii) At the instant of accused Phaiju a wooden plank was recovered from the pond, which had blood on it. The deceased's purse, the deceased's papers kept in it and the identity card of "Lakshmi "Traders" were also recovered this accused. The weapon of assault used by

accused Phaiju in the murder, which was given by him to Janab Ali, was also seized from Janab Ali on 29.10.1997 on the basis of his prior information, there was also blood on it.

(xiv) Out of the amount looted from the deceased, Rs.1500/- was given by accused Phaiju to witness Tulsi on 10.10.1997 which was seized from Tulsi on 28.10.1997.

19. The Supreme Court in the matter of **Sharad Birdhichand Sarda v. State of Maharashtra**[6] has clearly laid down the factors to be taken into account in adjudication of cases of circumstantial evidence, which states as under :-

> *"(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned "must" or "should" and not "may be" established;*
>
> *(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;*
>
> *(3) the circumstances should be of a conclusive nature and tendency;*
>
> *(4) they should exclude every possible hypothesis except the one to be proved; and*

6 (1984) 4 SCC 116

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

20. Now, it is to be considered that the learned trial Court has appreciated the circumstantial evidence projected by the prosecution in its true perspective or not ?

21. So far as point No. (i) is concerned, in this regard Daulat Phalyani was not examined and no other evidence was also produced on this point, hence the deceased getting the briefcase kept by employee Deepak on 08.10.1997 or giving it to the deceased Kundan by accused Deepak on 09./10.1997, Hence, point No. (i) is not found proved. Even on point No.2, not even a shred of evidence was presented, hence this too is also not proved.

22. So far as point No.(iii) is concerned, it is proved beyond doubt by the uncontested sworn testimony of witnesses Prabhakar (PW-8), Surendra Rath (PW-9) and Trinath (PW-19) that on 16.10.1997, the dead body of deceased Parameshwar Rao was found in injured and burnt condition at the said place of incident and canes of petrol were also found there, hence the point No. (iii) is proved.

23. So far as point Nos. (iv) to (viii) are concerned, in these regard, this Court has to first determine whether the deceased collected Rs.1,06,000/- and a draft of Rs.15,300/- on 08.10.1997 and brought it to Kanker. The only evidence on this point is of the

evidence of Trinath, the partner of the Laxmi Traders firm, that the deceased had telephoned him on 08.10.1997, instructing him to come to Kanker with such a sum and such a draft, place the cash and draft in a briefcase, and keep the briefcase safe at the home of accused Deepak's father. This statement is admissible under Section 32 of the Evidence Act. According to the testimony of Prabhakar (PW-8), Trinath informed Prabhakar of this telephone communication on 11.10.1997. However, this supporting evidence is admissible only under Section 157 of the Evidence Act. Under this Section, only that statement can be admitted in support which is given at the time of occurrence of the incident or event. The statement of receiving the telephonic information on 08.10.1997 three days later, is certainly outside the said time limit, hence Prabhakar's statement on this point is not even eligible for consideration.

24. In this context, the report (Ex.P-45) given by witness Trinath to the police is admissible because the time limit prescribed under Section 157 for other persons does not apply to information given to a competent authority. Trinath had come in search of the deceased primarily because he was likely to be in possession of the money collected for his firm. However, the report does not state the amount and the amount of drafts the deceased had brought with him, or where he had kept them. If Trinath had received information about the amount collected by the deceased and the draft to be brought to Kanker by 13.10.1997, when he

filed this report, then the absence of information from the deceased about the amount collected and the draft report Ex.P-45 is not in accordance with the normal expected record, because at that time Trinath might have suspected that the deceased might have embezzled the amount collected and absconded. Therefore, in the light of this report, Trinath's unlikely statement that the deceased had informed him about the night and collecting such draft and going to Kanker is not credible. Therefore, Trinath's statement, which is unreasonably suspicious in this context and is also contradicted by his First Information Report (Ex.P-45), is beyond any doubt. It is also noteworthy that the statement given in the rural complaint after the recovery of the body does not mention whose draft was found. Yet, Trinath is resorting to falsehood, claiming that the deceased had told him that he had brought a bank draft from Ambikapur from the Leela Ram firm in Raipur. The statement in Ex.P-46 also makes no mention of the collections from Dhamtari, Bilaspur, and Kanker. Trinath (PW-19) in paragraph 23 of his evidence has alleged that a month after 16.10.1997, he informed the firm of Leela Ram, who had issued such a draft, that the draft had been lost and ordered a duplicate draft. If the draft had been received in a torn condition on 18.10.1997, Trinath would not have informed the Leela Ram firm of its loss. The omission of the draft in the said firm from the rural complaint at Ex.P-46 further strengthens that Trinath had no knowledge of whose draft it was until 16.10.1997. The attempt he

made to obtain the draft amount a month later creates doubt that he must have learned about the draft long after 18.10.1997.

25. Accused Deepak's claim that Rs. 46,000/- was his personal property cannot be considered false. There is not even the slightest substantive evidence of accused Deepak giving Rs.6,400/- to his brother Vinod or giving Rs. 10,800 to witnesses Jaggu, Krishnakumar, Abdul Gafar, Mohd. Hanif, Moth Falv, etc. Jagdish (PW-3) admitted that Rs. 1000/- was seized from him as per Ex.P-10 but claimed that the amount was his own. K.Krishnakumar (PW-5) admitted that Rs.2600/- was seized from him as per Ex.P-4 and claimed that the amount was his. Abdul Gaffar (PW-5) also admitted that Rs.3000/- was seized from him as per Ex.P-8 and claimed that the amount was his personal money. Farookh (PW-7) admitted that Rs.200/- was seized from him as per Ex.P-9 but denied receiving such amount from Deepak. Sekh Latif (PW-11) did not admit that Rs.1000/- was seized from him as per Ex.P-38. Witness Ramzan Ali (PW-17) has also denied recovery of Rs.700/- as per seizure memo Ex.P-44.

26. There is no evidence that any money was paid to accused Phaiju, Liyakat, or any other accused by Deepak after 08.10.1997. Thus, point Nos. (iv), (v), (vii), and (viii) have not been proven beyond reasonable doubt. Regarding point No.(vi), learned trial Court held that the Rs.46,000/- seized from accused Deepak was not money looted from the deceased, but rather his own property.

27. So far as point No. (ix) is concerned, from the sworn statements of Rajesh (PW-1) and Kishore (PW-2), it is evident that during the Navratri of 1997, accused Deepak had gone to Rajesh to ask for his motorcycle and later Deepak got the motorcycle returned to Rajesh through Kishore. However, it is not certain on which date this incident took place, hence this point also cannot be proved to be related to the date 08.10.1997. The statement of an omnipresent and interested witness like witness Prabhakar (PW-8) is also not believable beyond doubt beyond that accused Deepak along with accused Kundan had got the deceased's briefcase, belt, pant-shirt, diary, love of suitcase etc. destroyed. Thus, point No. (x) is also not proved.

28. The result is that out of the circumstances relied upon against the accused Deepak, only circumstance (iii) is proved, that the body of Parmeshwar was found in an apparently dead state by the police on the basis of information received from other sources and that Rs. 46,000/- was seized from him on 20.10.1997. None of the remaining circumstances have been proved against him beyond reasonable doubt.

29. Consequently, since no offence has been proved beyond reasonable doubt against any of the accused, the learned trial Court has acquitted all the accused from the charges by giving them the benefit of doubt holding that the prosecution has failed to prove its case beyond reasonable doubt.

30. Upon careful and close scrutiny of the entire evidence available on record, this Court finds no compelling reason to take a view different from that taken by learned trial Court. The trial Court, after due appreciation of the evidence, acquitted the accused/respondents by its judgment dated 10.04.2003. The incident in question pertains to the year 1997, and the petition seeking leave to appeal against acquittal was filed in the year 2003. Subsequently, the appeal was admitted in the year 2010.

31. Given the fact that more than 28 years have elapsed since the date of the incident, and taking into consideration the protracted nature of the proceedings, as well as the findings recorded by the trial Court which do not appear to suffer from perversity or manifest illegality, this Court finds no merit in interfering with the acquittal.

32. Accordingly, the appeal, being devoid of substance, deserves to be dismissed and is hereby **dismissed**.

33. The Registry is directed to transmit the certified copy of this judgment along with the record to the trial Court concerned for necessary information and compliance.

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Chandra

Head – Note

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.