

(2019) 08 CHH CK 0187
In the Chhattisgarh High Court
Case No : ACQA No. 593 Of 2019

Dilip Patel

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 27-08-2019

Acts Referred:

Indian Penal Code, 1860 — Section 149, 201, 309

Citation : (2019) 08 CHH CK 0187

Hon'ble Judges : Prashant Kumar Mishra, J;Gautam Chourdiya, J

Bench : Division Bench

Advocate : S.S. Kushwaha, Pawan Kesharwani

Final Decision : Dismissed

Judgement

Prashant Kumar Mishra, J

1. The present appeal has been preferred by father of deceased Balram Patel, who was murdered at Village-Bhathri during the period 06.08.2013 to 8.08.2013. By the impugned judgment dated 30.4.2015 passed by 4th Additional Sessions Judge, Bilaspur in ST No.117/2014, the accused persons have been acquitted of the charges under ACQA No.593 of 2019 Sections 302/149 and 201 of IPC.

2. The prosecution alleged that daughter of accused Munna @ Krishna Kumar had an affair with deceased Balram, therefore, the accused persons formed an unlawful assembly, took the deceased inside the primary school premises at Village-Bhatri and committed his murder by assaulting and strangulating him. Thereafter, his dead body was thrown in Murum quarry with the object of concealing the evidence of crime.

3. There being no eyewitness to the crime, the prosecution case rested on circumstantial evidence in the nature of memorandum statements and consequent recovery of motorcycle, mobile set and clothes. Though call details were obtained but none of the accused had any conversation with the deceased immediately before the incident. It is the case of the prosecution that all the

accused persons conversed with each other to hatch conspiracy and thereafter they committed murder. However, there is no charge of hatching conspiracy against the accused persons. The charge is of commission of murder by forming an unlawful assembly and concealment of evidence of crime. Considering the weak piece of evidence against the accused persons, the trial Court has recorded a finding that the chain of circumstantial evidence is not proved to be complete.

4. On perusal of record, we have found that there is no evidence against the accused of being last seen together with the deceased or in the nature of extra judicial confession. Merely on the basis of memorandum statements and consequent seizure, conviction for committing murder is not permissible. Therefore, no case for admitting ACQA No.593 of 2019 the present acquittal appeal is made out.

5. Accordingly, the acquittal appeal deserves to be and is hereby dismissed.