

(2017) 03 RAJ CK 0120
In the Rajasthan High Court
Case No : 313 of 2016

State of Rajasthan

APPELLANT

Vs

Jaswant Singh S/o Teja Tam

RESPONDENT

Date of Decision : 31-03-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 161](#) - Examination of witnesses by police
[Indian Penal Code, 1860](#), [Section 120B](#)/
[Section 302](#), [Section 176](#)

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Hon'ble Judges : Govind Mathur, Vinit Kumar Mathur

Bench : DIVISION BENCH

Advocate : JPS Choudhary

Final Decision : Dismissed

Judgement

1. This application is preferred to have leave to appeal the judgment dated 11.5.2016 passed by learned Additional Sessions Judge, Rajgarh in Sessions Case No.10/2010 acquitting the accused-respondents from the charges pertaining to offence punishable under Sections 447, 302 or 302/34 and 120-B IPC . The learned trial court after examining the entire evidence available on record arrived at the conclusion that no evidence is available on record to indicate only one conclusion i.e. about the involvement of the accused persons in the crime in-question.
2. Learned trial court while arriving at such conclusion did not believe the eye-witnesses; the witnesses pertaining to recovery of weapon

of offence and also certain other circumstantial evidence such as availability of the accused persons in the vicinity where the crime was committed.

3. On examination of record of the case also we do not find any material evidence sufficient to record conviction of the accused respondents. True it is, the prosecution produced three eye-witnesses which are PW-2, PW-7 and PW-13 but they are not at all trustworthy as during the course of investigation they never disclosed their presence or to be more specific the incident of witnessing occurrence of the crime in-question. During cross-examination they utterly failed to satisfy as to why they did not disclose their presence at the place of occurrence while making statement under Section 161 Cr. P.C., before the Investigating Officer. So far as the evidence relating to recovery is concerned, that too is not sufficient to be treated as a cogent material to indicate involvement of the accused respondents in the crime. The recovery as per recovery memo was made from an open place, which is accessible to each and every person. In view of it, we do not find any wrong with the judgment given by the trial court. The application seeking leave to appeal is dismissed.