



2026:CGHC:20893-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 85 of 2014

State of Chhattisgarh Through PS Chintagufa, Distt. Sukma,
Chhattisgarh

... Appellant

versus

- 1** - Oyami Ganga, S/o Lakhma Aged About 35 Years R/o Minpa Patelpara, Ps Chintagufa, Distt. Sukma C.G.
- 2** - Madvi Dula S/o Mukka Aged About 45 Years R/o Minpa Patelpara PS Chintagufa, Distt. Sukma C.G.
- 3** - Podiyami Hidma S/o Maya Aged About 25 Years R/o Patelpara PS Chintagufa, Distt. Sukma C.G.
- 4** - Oyami Hidma S/o Ganga Aged About 25 Years R/o Patelpara PS Chintagufa, Distt. Sukma C.G.
- 5** - Kawasi Buthra S/o Hadma Aged About 28 Years R/o Patelpara PS Chintagufa, Distt. Sukma C.G.
- 6** - Hurra Joga S/o Hadma Aged About 30 Years R/o Minpa Patelpara PS Chintagufa, Distt. Sukma C.G.
- 7** - Barse Lakhma S/o Bhima Aged About 19 Years R/o Kawasiras Marepalli PS Chintagufa, Distt. Sukma C.G. **(died and deleted)**
- 8** - Madkam Ganga S/o Madkam Hadma Aged About 32 Years R/o Gorgunda, PS Chintagufa, Distt. Sukma C.G.
- 9** - Rajesh Nayak S/o Manuk Ram Aged About 45 Years R/o Gorgunda, PS Chintagufa, Distt. Sukma C.G.
- 10** - Kartam Joga S/o Bandi Aged About 49 Years R/o Misma PS Chintagufa, Distt. Sukma C.G. **(died and deleted)**

... Respondents

For State/Appellant : Mr. Vivek Sharma, Advocate General
assisted by Dr. Saurabh Pande,
Deputy Advocate General

For Respondents : Mr. Ishwar Jaiswal, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

05.05.2026

1. This Acquittal Appeal under Section 378 (1) of the Criminal Procedure Code, 1973 has been filed by the State/appellant challenging the legality, validity and propriety of judgment dated 07.01.2013 passed by the Additional Sessions Judge, South Bastar, District – Dantewada (C.G.) in Sessions Trial No. 223/2010 (*State of Chhattisgarh Vs. Oyami Ganga & Others*), whereby the learned trial Court has acquitted the accused/respondents from the offence punishable under Sections 148, 120B, 396 (76 count) of IPC and Section 25, 27 of Arms Act and Section 3, 5 of Explosive Substance Act holding that the prosecution has failed to establish its case beyond reasonable doubt.
2. The prosecution case, in brief, is that Satyawan Singh, Deputy Commander, 62nd Battalion CRPF, was on Area Domination Patrol from 04.04.2010 to 07.04.2010 along with the company and police force, going towards the hilly forest of Chintalnar with force 82, when on 06.04.2010 in the morning, there was an encounter with Naxalites in the forest of village Tadmetla. On seeing the police force, Naxalites opened heavy fire with the intention of killing them, due to which the police also opened fire for self-defense. Due to the said firing, bodies of 76 police personnel

were scattered all over the place. The Naxalites also looted the weapons of the police force. Tiffin bombs were planted at various places by Naxalites, which were defused. A report of the said incident was lodged at Chintagufa police station.

3. During the investigation of the report, statements of the witnesses were recorded, a site map of the burial site was prepared, seizure proceedings were carried out, post-mortem of the bodies were conducted and the accused were arrested.
4. After completion of investigation, charge sheet was presented against the accused before the Court of Judicial Magistrate First Class, Konta (Chhattisgarh), from where the case was committed to the Sessions Court, South Bastar, District – Dantewada (C.G.), from where the case has been received by Court of Additional Sessions Judge, South Bastar, District – Dantewada (C.G.) for disposal.
5. When the accused were charged under sections 148, 120B, 396 (76 count) of IPC, Sections 25, 27 of the Arms Act and 3, 5 of the Explosive Substances Act, the accused denied the charges and sought trial. They refused to give defence evidence, claiming innocence in their alleged statements.
6. In order to prove its case, the prosecution has examined as many as 43 witnesses and exhibited 156 documents. Accused were examined under Section 313 of the Cr.P.C., in which they denied the circumstances appearing against them and claimed innocence

and false implication in crime in question.

7. After providing opportunity of hearing to the parties, the learned trial Court has acquitted the accused/respondents from all the charges levelled against them. Hence, this acquittal appeal.
8. Mr. Vivek Sharma, learned Advocate General assisted by Mr.Saurabh Pande, learned Deputy Advocate General, appearing for the State/ appellant submitted that the judgment of acquittal passed by the learned Trial Court is illegal and unsustainable. The Trial Court has failed to appreciate crucial evidence, including the confessional statement of the accused/ respondent Barse Lakhma under Section 164 Cr.P.C. before the learned Magistrate that he along with other accused persons was involved in the instant crime. Further, the learned trial Court has also failed to appreciate the seizure of pipe bombs and explosives defused by the Bomb Disposal Squad, and other corroborative material. The rejection of the prosecution's application under Section 311 Cr.P.C. to examine seven injured CRPF personnel, who were eyewitnesses, is a serious error that undermines the case. Further, the Trial Court ignored the suddenness of the attack and the chaotic circumstances, which naturally led to minor discrepancies in witness accounts. Circumstantial evidence and the material on record clearly point to the respondents' guilt. By failing to consider the cumulative effect of the evidence, the Trial Court committed a manifest error of law and fact, rendering the acquittal unjust, as such, he prayed that the acquittal should be set aside, and the

respondents shall be convicted under Sections 148, 120B, 396 (76 count) of the IPC, Sections 25 and 27 of the Arms Act, and Sections 3 and 5 of the Explosive Substances Act.

9. On the other hand, Mr. Ishwar Jaiswal, learned counsel appearing for the 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.
10. We have heard learned counsel appearing for the parties, perused the impugned judgment of acquittal and record of the trial Court.
11. The Court has called upon learned Advocate General to point out the incriminating circumstances pointing towards guilt of the respondents, but he fairly submitted that all the prosecution witnesses have turned hostile, moreover, the accused were also not identified by any of the witnesses that they are the perpetrators of the crime. Further, when this Court has also make a query as to why in such a case, an appeal has been filed by the State when there was no evidence against the accused/ respondents, the learned Advocate General could not justify the filing of present appeal and he states that the appeal was filed way back in the year 2014.
12. This is an appeal against the judgment of acquittal filed by the State under Section 378(1) 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.

13. 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 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.
14. 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 reappraisal of the evidence to reach a conclusion which is at variance with the one

1 AIR 2003 SC 182

2 AIR 2004 SC 1053

3 AIR 1987 SC 1083

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 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.”

15. 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."

4 2022 SCC OnLine SC 984

16. 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 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."

17. While exercising the appellate jurisdiction against judgment of acquittal, the High Courts or the appellate Courts are fully empowered to appreciate and re-appreciate 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.
18. In the light of aforesaid dictum and proposition of law, we have examined the evidence adduced on behalf of the prosecution.

5 (2022) 8 SCC 440

19. To prove the charges levelled against the accused/respondents, the prosecution has examined as many as 43 witnesses and exhibited 156 documents.
20. The trial Court, after appreciating oral and documentary evidence available on record particularly relying upon the statements of doctors, who had conducted postmortem over the dead bodies of the deceased, has come to the observed that said doctors, in their opinion, have stated that the death of the deceased were of homicidal in nature due to burns and injuries sustained in firing and explosion. Witness Shravan Kumar (PW-34) has confirmed the PM report by testifying that the said deceased were killed by firing and bomb explosion by Naxalites, but the eyewitnesses not supporting the prosecution case regarding the murderous death of the deceased caused by the accused makes the evidence of the doctors baseless and the prosecution's case does not gain any strength due to the cooperation of the doctors.
21. In the present case, there is no direct evidence / eyewitness available on record. The case of prosecution is based on the 'circumstantial evidence'.
22. 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 :-

6 (1984) 4 SCC 116

“(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

(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.”

23. Witnesses Kartam Raju (PW-22), Kawasi Shankar (PW-23), Madvi Hadma (PW-24) have stated that they had gone to Tadmetla forest for searching, where during the search, seizure of 10 tiffin bombs, 5 grenades, 10-15 meter wire, empty cartridges, 500 rifles was made as per Ex.P.22 on which their signatures are there. They further stated that no such material has been seized from the accused, the seizure is from the place of incident. The evidence of the seizure witnesses becomes insignificant, as the eyewitnesses have not supported the prosecution case regarding

the homicidal death of the deceased at the hands of the accused.

24. Witness A.K. Khalko (PW-36) Inspector has stated that he recorded the statement of witnesses Ashutosh Shukla, Kamaluram, Chhotu Yadav, Banshidhar, Patanjali Shukla, Anup Baghel, Maikam Polla, Kodiam Deva, Podium Kosa, Madvi Hunga, Raipal Das, Kishore Kumar as per their statement, no weapon of any kind has been seized from the accused, the eyewitnesses not supported the prosecution's case regarding the murderous death of the deceased by the accused makes the investigation officer's evidence unjustified and their evidence does not give any strength to the prosecution's case.
25. Thus, it is also not proved that the accused conspired to kill the police personnel by illegal means and in pursuance of that agreement, the accused persons planted explosive material under the ground with which they conspired to kill the police personal and it is also not proved that the common purpose of the unlawful assembly formed by the accused was to commit robbery of the weapons of the police party and the armed forces and in furtherance of the said purpose, by blasting the police party and putting the armed forces personnel in fear of their immediate death or immediate injury, they killed 76 deceased and looted their weapons and committed robbery.
26. Witness Swaran Singh (PW-41) has stated that he destroyed two tiffin bombs, two pipe bombs, chloroform grenade and one bug

seized from the scene of occurrence, the proof of destruction is Ex.P147A on which his signature is there.

27. Witnesses Kartam Raju (PW-22), Kawasi Shankar (PW-23), and Madvi Hadma (PW-24) stated that they had gone to Tadmetla forest for a search, during which 10 tiffin bombs, 5 grenades, 10–15 meters of wire, empty cartridges, and 500 rifle bags were seized as per Ex.P.22, on which their signatures appear. However, the said material was not recovered from the accused, and the FSL report in this regard has not been presented. In the absence of the FSL report, it cannot be confirmed that the material recovered from the scene is explosive. Consequently, the evidence of witnesses Swarn Singh, Kartam Raju, Kawasi Shankar, and Madvi Hadma becomes ineffectual and does not strengthen the prosecution's case.
28. There is no evidence regarding the prosecution sanction in the case, which is a significant omission. Thus, in the absence of the seizure of prohibited arms and explosive material from the accused, without certification of the seized material as explosive due to the non-production of the FSL report, without evidence of prosecution sanction, and with eyewitnesses not testifying to the involvement of the accused in the crime, it is not established that the accused were found illegally possessing lethal weapons such as guns, in violation of Section 3 of the Arms Act, 1959, or that they used them in the crime. It is also not established that the accused, acting illegally and with malice, exploded or used

explosive material such as bombs at the scene of the occurrence with the intention of endangering life or property, which were capable of causing serious damage or threatening the lives of the people present.

29. On a careful scrutiny of the evidence on record and the submissions of learned counsel for the parties, it is evident that this is a case of serious magnitude, wherein 75 personnel of the CRPF including one of State Police have lost their lives. The prosecution alleges that the accused/respondents conspired to commit murder, used explosive material, and possessed prohibited arms with the intent to endanger life and property. However, the examination of the evidence reveals several critical lacunae in the prosecution case :

(i) There is no direct evidence or eyewitness testimony linking the accused/respondents to the actual commission of the homicidal acts. None of the eyewitnesses has identified the accused as perpetrators.

(ii) The alleged confessional statement of the accused under Section 164 Cr.P.C. is not corroborated by any independent evidence.

(iii) Seized explosive material, including pipe bombs, grenades, and rifles, were recovered from the place of incident and not from the possession of the accused. Crucially, the FSL report certifying the material as explosive has not been produced, rendering the seizure evidence ineffective.

(iv) The investigation appears to be flawed as there is no record of the prosecution sanction required under the Arms Act, no TIP (Test Identification Parade) of the accused was conducted, and the trial Court rightly noted discrepancies in witness accounts due to chaotic circumstances of the attack.

(v) Though statements of police witnesses and officers confirm that the materials were seized, but cannot establish the accused's involvement in planting, handling, or using explosives.

30. The settled legal position, as reiterated in ***Sharad Birdhichand Sarda' case*** (supra) and subsequent judgments, mandates that in cases based on circumstantial evidence, the circumstances must form a complete chain, excluding every other hypothesis except the guilt of the accused. In the present case, the evidence does not satisfy these conditions, and reasonable doubt remains.
31. It is deeply painful to note that despite the loss of 75 personnel of the CRPF, including one member of the State Police, in a brutal attack allegedly carried out by Naxalites, the prosecuting agencies have not been able to establish the identity of the real perpetrators of the crime or bring them to justice for such a barbaric act.
32. We are equally distressed to observe that a case of such a serious magnitude, involving mass casualties and grave consequences to national security, has ultimately been dealt with in a manner where no legally admissible and reliable evidence could be

produced against the accused persons. As a result, the learned trial Court was constrained to acquit them.

33. In these circumstances, we have no option but to hold that the order of acquittal passed by the trial Court cannot be termed as perverse, unreasonable, or one that defies logic or judicial propriety. While the loss of 76 lives is undeniably a matter of profound tragedy and national concern, it is equally well-settled in criminal jurisprudence that an appellate Court cannot sustain a conviction in the absence of clear, cogent, and legally admissible evidence establishing guilt beyond reasonable doubt.
34. To do so would be contrary to the fundamental principles of criminal law, including the presumption of innocence in favour of the accused. The criminal justice system, however anguished it may be by the gravity of the offence and the magnitude of the loss, must nevertheless adhere strictly to the rule of law and the evidentiary standards mandated by law.
35. Accordingly, the instant appeal filed by the State against the judgment of acquittal passed by the trial Court is hereby **dismissed**. The acquittal of the accused/respondents is upheld, as the prosecution has failed to prove guilt beyond reasonable doubt. However, the Court emphasizes that the State must ensure high standards of investigation in future cases involving serious crimes, to prevent recurrence of procedural lapses and to uphold public confidence in the criminal justice system.

36. This Court is constrained to note that the chain of circumstantial evidence remained incomplete and failed to conclusively establish the requisite *mens rea* or any direct or indirect nexus of the accused with terrorist organizations or anti-national activities. The investigation also suffered from deficiencies such as failure to identify and examine material witnesses, lack of forensic and technical substantiation, and non-collection of primary evidence connecting the accused with the alleged offences. Mere suspicion, however strong, by itself cannot substitute the requirement of proof beyond reasonable doubt.
37. It is very lamented that the State did not take effective steps to collect cogent and reliable evidence against the accused, despite the tragic loss of 75 CRPF personnel, including one member of the State Police, in a brutal attack allegedly carried out by Naxalites. The investigation appears flawed, as there is no record of the required prosecution sanction under the Arms Act, and no Test Identification Parade (TIP) of the accused was conducted. Furthermore, the FSL report, certifying the seized materials as explosives, has not been produced, rendering the seizure evidence ineffective. Such lapses not only hinder the course of justice but also risk the failure to prosecute the guilty.
38. In view of the deficiencies observed in the present case, the State is directed to ensure that all future investigations of serious crimes, particularly those involving mass casualties or threats to national security, are conducted with utmost diligence and strict

adherence to legal procedures. Investigating agencies must promptly collect and preserve cogent, reliable, and legally admissible evidence, including forensic, ballistic, and technical material, while ensuring proper documentation of seized items and maintenance of the chain of custody. Material witnesses must be identified and examined at the earliest stage, and Test Identification Parades (TIPs), wherever applicable, must be conducted without delay. Prosecution sanctions under relevant laws, such as the Arms Act, must be obtained as required, and internal review mechanisms should be instituted to monitor the quality and completeness of the investigation.

39. The State must also implement training programs for personnel to enhance investigative competence and periodically report on the steps taken to comply with these directions. Such measures are essential to prevent procedural lapses, secure justice for victims, uphold the presumption of innocence, and maintain public confidence in the criminal justice system. Adherence to these standards is crucial to ensure that those responsible for serious offences are identified, prosecuted, and held accountable in accordance with the law.
40. Registry is directed to send a certified copy of this order to Chief Secretary to the Government of Chhattisgarh, Raipur as well as the Director General of Police, Chhattisgarh, Raipur, who may circulate it to the authorities under it for information and necessary compliance.

41. 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/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Chandra

Head-Note

Acquittal of accused in a mass attack on CRPF personnel upheld due to lack of direct evidence, incomplete circumstantial proof, procedural lapses in investigation, and failure to establish guilt beyond reasonable doubt, despite the gravity of the offence.