



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 3618/2024

Ghanshyam S/o Bhanwar Lal, Aged About 38 Years, Category-
Obc (Non-Cremy), R/o Village And Post Inana, P.s. Mundwa,
Tehsil Mundwa, Dist. Nagaur,raj. Pin-341026

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s) : Mr. Rajak Khan Haidar.

For Respondent(s) : Mr. Mahipal Bishnoi, PP

HON'BLE MR. JUSTICE ARUN MONGA
Order

05/07/2024

1. The grievance of the petitioner herein is that, rather than granting a clean acquittal, the trial court acquitted the petitioner by giving the benefit of the doubt due to a lack of evidence and in view of the compromise reached between the parties.
2. The petitioner was tried in Criminal Case No. 550/2004 and was acquitted of charges under Sections 147, 323, 427 and 336 of the IPC by a judgment dated 28.03.2007.
3. Heard.
4. The learned counsel for the petitioner argues that the impugned judgment clearly shows there was no prosecution evidence against the petitioner. He contends that the "benefit of the doubt" should only be recorded when there is prosecution evidence that is found to be unreliable. In cases where there is a complete lack of prosecution evidence to support the charge, the acquittal should be classified as a clean acquittal.
5. The learned Public Prosecutor does not dispute that none of the prosecution witnesses who were examined during the trial



supported the allegations against the petitioner, as they had turned hostile.

6. I am of the opinion that the impugned judgment unmistakably reveals a complete absence of prosecution evidence against the petitioner. The legal principle of granting the "benefit of the doubt" should only apply in scenarios where there is some prosecution evidence, but such evidence is deemed unreliable or insufficient to conclusively prove guilt. In contrast, when there is a total lack of prosecution evidence to substantiate the charge, the acquittal should not be categorized under the "benefit of the doubt." Instead, it must be recognized as a "clean acquittal," reflecting the fact that the prosecution has utterly failed to meet its burden of proof. The petitioner therefore deserved a clean acquittal.

7. Furthermore, misclassifying an acquittal could have significant legal and reputational repercussions for the petitioner, unjustly tarnishing their standing by implying that there was some merit to the charges, albeit insufficient to convict. Thus, in the present case, in the absence of any prosecutorial evidence, the petitioner's acquittal is directed to be explicitly recognized as a "clean acquittal".

8. Accordingly, the impugned judgment is modified to reflect that the petitioner's acquittal is a clean acquittal, rather than one based on the benefit of the doubt.

9. With these observations, the petition is allowed. Pending application, if any, also stands disposed of.

(ARUN MONGA),J

38-Rmathur/-

Whether fit for reporting : Yes / No