

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 532 of 2014**

Baisakhu S/o Punit Dhobi Aged About 45 Years R/o Village Bhilai, P.S. Arang, Tahsil, Civil & Revenue Distt.- Raipur, C.G.

---- **Petitioner**

Versus

1. Parasnath Sahu S/o Chumbak Lal Sahu Aged About 44 Years
 2. Smt. Timan Bai W/o Parasnath Sahu Aged About 42 Years
 3. Girdhari Lal S/o Leelaram Sahu Aged About 40 Years
 4. Baisakhin Bai W/o Chhattu Sahu Aged About 45 Years
 5. Khelu S/o Jainu Lal Sahu Aged About 22 Years
 6. Lata Bai W/o Jainu Ram Sahu Aged About 50 Years
 7. Triveni Bai W/o Mohar Sahu Aged About 40 Years
 8. Bindu Bai W/o Thakur Ram Sahu Aged About 35 Years
 9. Puniya Bai W/o . Tikaram Sahu Aged About 55 Years
 10. Tuman Lal S/o Tikam Sahu Aged About 22 Years
 11. Rishi Satnami S/o Nathu Satnami Aged About 35 Years
 12. Shanti Bai W/o Jagmohan Sahu Aged About 55 Years
 13. Vashishth @ Vasit S/o Bhagiram Sahu Aged About 40 Years
 14. Goverdhan S/o Gada Raisen Aged About 55 Years
- All R/o Village Bhilai, P.S. Arang, Distt.- Raipur, C.G.

---- **Respondents**

For Petitioner	:	Shri CR Sahu, Advocate.
For Respondents	:	Shri DN Prajapati, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

29/07/2016

1. The present petition has been filed challenging the order dated 28.02.2014 passed by the Judicial Magistrate First Class, Raipur, in

Criminal Case No.757 of 2010 acquitting the respondents from the charges.

2. The case of the prosecution in brief is that, PW-1, Baisakhu, filed a compliant before the police authorities stating that on 11.05.2003 at around 7:00 am the respondents along with others constituted a mob and reached the place of incident where he was constructing a small house and his building materials were also lying. The petitioner was obstructed from construction work being carried out by him, on the ground, that the land, over which he was constructing a house was infact a land allotted by the Gram Panchayat to the respondents and the petitioner was encroaching upon the said land. In the course of altercation, the mob also is said to have set on fire the house being constructed. It is also alleged that the respondents had also abused and assaulted the petitioner and his wife during that period.
3. The matter was finally put to trial before the trial court being criminal case No.757 of 2010, which the court below finally on 28.02.2014 decided by holding that the prosecution has not been able to establish the case against the respondents. Accordingly, the respondents were acquitted from the charges levelled against them. It is this order which is under challenge in this petition.
4. Counsel for the petitioner submits that the court below has not properly appreciated the evidence which has been brought by the complainant Baisakhu, PW-1 and his wife Sukhbati, PW-2 and the other prosecution witnesses and the court below in a mechanical manner has decided the case by acquitting the respondents of all the charges. Therefore, prayed that the order passed by the court below

be set aside and the respondents be held to be guilty of the offence charged against them.

5. Counsel for the State however opposes the petition and submits that infact the petitioner has failed to adduce cogent evidence and the overt act on the part of each of the respondents. He further submits that even otherwise, from the evidence of PW-1, Baisakhu itself it is evidently clear that he was not there when the mob attacked his house or when it was set on fire. It is also submitted that allegation of assault on the petitioner-complainant also stands disproved for the reason that there was no injury sustained by him and it was impossible that a mob of 20-25 persons had assaulted him and he sustained no injury. Thus, for all these reasons, the state counsel prays for rejection of the petition.
6. Having heard counsel for the parties and taking into consideration the facts and circumstances of the case, what is an admitted position is that, PW-1, Baisakhu, has admitted the fact that upon hearing about the incident he reached the spot and at that time he did not found any of the accused persons on the spot. It is also hard to believe that if a person is assaulted by a group of 20-25 persons, there would be no injuries. Further, it is a case where from the deposition of the prosecution witnesses, it does not reflect as to individual, independent overt act on the part of each of the respondents/accused. All these facts are sufficient to give benefit of doubt to the accused persons and if, on the basis of same, the court below has acquitted the respondents/accused of the charges, it cannot be said to be bad in law, illegal or contrary to the evidence.

7. Thus, in the opinion of this court, no strong case is made out by the petitioner-complainant seeking for interference with the finding of innocence against the respondents.
8. Accordingly, the petition being devoid of merit is liable to be and is hereby dismissed.

SD/-
(P.Sam Koshy)
Judge

inder