

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.585 of 2006**

- Bise Ram, Age 43 years, S/o. Shri Hirdayaram Gound,
- Seeta Ram, Age 48 years, S/o. Shri Kejauram Gound, **(name deleted as per Order dated 04.9.2017)**
- Kartik Ram, Age 45 years, S/o. Shri Udairam Gound,

All are R/o. Village Singhrupali, PS Pithora, Tahsil & Distt. Mahasamund (CG)

---- Applicants

Versus

- The State Of Chhattisgarh Through: Collector, Distt. Mahasamund, Chhattisgarh

---- Respondent

For Applicant : None present.
For respondent/State : Shri Anil S Pandey, Govt. Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****13.12.2017**

1. This revision has been preferred against the order dated 21.9.2006 passed by First Additional Sessions Judge, Mahasamund (CG) in Criminal Appeal No.83/2006 wherein the said Court affirmed the judgment of conviction and order of sentence passed by Judicial Magistrate First Class, Mahasamund in Criminal Case No.462/2005 wherein the said Court convicted the applicants for the commission of offence under Sections 33 (1)(b)& 42 of Indian Forest Act, 1927(for short 'the Act') and sentenced them to undergo RI for three months and to pay fine of Rs.300/- in each count with default stipulations.

2. As per the prosecution case, Debra Forest is the protected forest and on 28.3.2002, the applicants entered into the protected

forest bearing (POR) No.1174/11 and cut down two trees and were transporting the same which is of Haldoo wood. Forest Officers caught the applicants with wood and thereafter forest offence was registered against them. After investigation, charge sheet was filed before the trial Court and the trial Court convicted and sentenced the applicants as aforementioned.

3. The instant revision has been filed on the following grounds:-

(1) Witnesses of the prosecution were public servants working in the forest department and they are interested witnesses and no conviction can be based on the testimony of said witnesses.

(2) It is not proved before the trial court that wood were removed from the protected forest, therefore, offence under Sections 33 and 42 of the Forest Act, 1927 is not made out.

(3) Findings arrived at by the trial court is not strictly in accordance with law.

4. Learned counsel for the State while supporting the impugned judgment submits that finding of the trial Court is based on the evidence and is not liable to be interfered with invoking jurisdiction of the revision.

5. CL Banjare (PW-1) is the Forest Guard. Motiram Sahu (PW-2) and Ramnath Sahu (PW-4) are the Choukidars of Forest Department. Banshilal Sahu (PW-3) is the Forest Guard. RS Dhruv (PW-5) is the Deputy Ranger of the Forest Department. All these witnesses have deposed in one voice that the applicants were transporting Haldoo wood in bicycles from protected forest area and they have been caught by these officers. As per the version of these

witnesses, seizure memo was prepared as per Ex-P/1 to P/3 and thereafter the matter was investigated. All the witnesses have been subjected to searching cross-examination, but nothing could be elicited in favour of the applicants.

6. Any person who fells tree from reserve forest is punishable for the offence under Section 33 of the Act and transporting of the wood is punishable under Section 42 of the Act. When the mischief committed by the applicants falls under the sections as mentioned above, the trial court and the appellate Court concluded that the applicants have committed the offence as mentioned above and the same is hereby affirmed.

7. Corporal punishment for the offence under Sections 33 & 42 of the Act is not compulsory. From the record it appears that the applicants were in jail from 21.9.2006 to 11.10.2006, i.e. 21 days. Considering all the facts and circumstances of the case, this Court is of the view that ends of justice would be served if the applicants are sentenced to the period already undergone by them while maintaining the conviction under Sections 33 & 42 of the Act.

8. Accordingly, the revision is allowed in part and the applicants are hereby sentenced for the period already undergone by them. Fine amount imposed by the trial Court will remain intact.

Sd/-
(Ram Prasanna Sharma)
JUDGE