

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 487 of 2009

Maa Karni Coal Carries Pvt. Ltd. Regd Office at J-8 B.D. Plats Munirka (New Address-C-7, Main Market, Basant Bihar -New Delhi) Camp Office-Coal Mines, Bishrampur, P.S. Bishrampur, District-Sarguja (CG) through-Managing Director, Maj. General (Retd.) P.C. Puri, aged about 68 yeas, Bishrampur, District-Sarguja (CG).

---- Petitioner

Versus

1. Co. (Retd) Dalip Singh Sachchar, S/o Dula Singh, aged about 69 years, R/o Phase 3 B-1, SAS Nagar Mohali PS Mohali District-Ropad (Punjab)
2. State Of Chhattisgarh Through Distt. Magistrate, Surguja (CG)

---- Respondents

For Petitioner	:	Shri Ashutosh Shukla, Advocate
For State	:	Shri Aditya Sharma, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/03/2017

1. This petition under Section 482 Cr.P.C. is preferred against the order dated 3rd December, 2002 by which the revision of the petitioner has been dismissed. The petitioner had filed a complaint against respondent No.1 alleging commission of offence under Sections 379 and 417 IPC on the allegation that the petitioner and respondent No.1 had entered into an agreement for transportation of coal through two dumpers which were purchased by respondent No.1 with the recommendation of the petitioner, with specific purpose of being used for transportation of coal for a period of five years.

It was alleged that on 26th January, 2000, respondent No.1 removed the two dumpers from the garage of the petitioner and later on those two dumpers were sold. On these allegations, complaint was filed.

Learned Magistrate, after examining the prosecution witnesses, finding that no case is made out worth trial, discharged respondent No.1 under Section 245 (2) Cr.P.C. Aggrieved by the order of discharge, a revision petition was preferred which too was dismissed giving rise to this petition.

2. Learned counsel for the petitioner submits that the vehicles were in possession of the petitioner. He submits that the specific agreement between the parties was that two vehicles (dumpers) shall be used for the purpose of carrying out the transportation work. However, respondent No.1 deceitfully removed two vehicles by making a statement that they are required to be checked-up whereas those vehicles were taken away and sold out. Therefore, a prima facie case is made out.
3. After going through the impugned order passed by learned revisional Court and the material on record as also submission of learned counsel for the petitioner, I do not find any ground to interfere with the impugned order. Possession of the vehicles is not disputed. Respondent No.1 was the owner of the vehicle. Merely because under the agreement, these two vehicles were agreed to be used for the purpose of carrying of coal transportation, that by itself would not mean that during the period of execution of contract, the petitioner acquired ownership, lease or possession of the vehicle. Merely because the vehicles were kept in the garage of the petitioner also does not mean that petitioner had acquired any right of possession of the vehicle. The vehicle at all times belongs to respondent No.1 and if he has sold his vehicles and for that reason only, respondent No.1 could not complete his part of obligation of carrying coal transportation for a period of five years from 7.8.1995 to 6.8.2000 under the agreement, the remedy lies with the petitioner to seek civil damages. No criminality appears to be involved in the action of respondent in taking away his own vehicle. Therefore, the Courts below have rightly discharged respondent No.1.
4. Therefore, no case of abuse of the process of Law warranting interference by this Court is made out. The petition is therefore dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge