

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 398 of 2017

1. Jalesh Kumar S/o Premlal Lodhi Aged About 32 Years R/o Village Rakhi, Police Chowki- Devkar, Police Station Saja, District Bemetara, Chhattisgarh.
2. Kuleshwar S/o Premlal Lodhi Aged About 30 Years R/o Village Rakhi, Police Chowki- Devkar, Police Station Saja, District Bemetara, Chhattisgarh.

---- Petitioners

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station- Saja, District Bemetara, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Aman Kesharwani and Shri Vivek Sharma, Advocate.
For State/Respondent	:	Shri Neeraj Sharma, Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

06/07/2017

1. Heard.
2. **Admit.**
3. This petition under Section 482 of Cr.P.C. has been brought challenging the order of Sessions Judge, Bemetara, in Criminal Revision No.35 of 2016 passed on 8.12.2016. Petitioners are being prosecuted under Section 419, 420, 467, 468 and 471/34 of Indian Penal Code (for short 'IPC') before the Court of Judicial Magistrate First Class, Saja, District-Bemetara, Chhattisgarh in Criminal Case No.259 of 2009, in which, the charges were framed and witnesses of prosecution were examined. At that stage, one application under Section 245 of Cr.P.C. was moved by the petitioners praying for acquittal. His application was rejected by the Judicial Magistrate First Class, Saja, District-Bemetara. A revision was preferred in the Court of Sessions Judge, Bemetara, which has been decided on 8.12.2016 dismissing the revision petition.
4. It is submitted by learned counsel for the petitioner that in Cr.M.P. No.1096/2015 **Premlal & others Vs. State of Chhattisgarh** the order was passed on

11.1.2017 by this directing the trial Court to dispose of the matter within a period of 4 months from the next date of hearing before the Court below. It is submitted that the evidence of witnesses examined does not show any case of prosecution, hence, petitioners are entitled for acquittal. Hence, prayed that the order passed by the Sessions Judge in criminal Revision be set aside.

It is further submitted by the learned counsel for the petitioner that trial Court has erroneously dismissed the application under Section 245(2) of Cr.P.C. and which has been erroneously confirmed by the revision Court of the Sessions Judge, Bemetara. No consideration has been given to this fact that this Court has directed the trial Court to conclude the trial within a period of 4 months. The case is based on the incident reported in the year 1993, which is more than 24 years and needs speedy trial and disposal whereas trial Court has entertained the application of prosecution under Section 311 of Cr.P.C, this is holding and lingering the case. Hence, petition may be allowed.

5. Learned counsel for the State has opposed the arguments submitted on behalf of the petitioner.
6. This petition is directed against the legality of the order passed by the trial Court under Section 245 (2) of Cr.P.C. which has been upheld by the Sessions Judge, Bemetara. It clearly appears that the petitioners were charged for the offences and have been tried, as reported the trial is still incomplete. Under these circumstances, there was no reason to invoke the provision under Section 245(2) of Cr.P.C. which is the law relating to discharge of the accused, that is the stage before framing of charges. Hence, there is no infirmity in the order passed by the trial Court and the revisional Court below. This petition has no merit even then there is a direction in the order dated 11.1.2017 passed in Cr.M.P. No.1096/2015 for expeditious disposal of the case as it is more than 20 years old. Hence, trial Court is again directed to make all the efforts for expeditious disposal of the case and the case be decided within a period of four months from the date of this order is communicated to the trial Court.
7. With the above observations, this petition stands disposed of at motion stage itself.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE