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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CR.M.P. No. 874 of 2017**

1. Jawahar Jain, S/o. Late Shri Balram Chandra Jain, Aged About 60 Years, R/o. Ward No. 18, Police Station- Manendragarh, Tahsil – Manendragarh and District - Koriya, Chhattisgarh.
2. Rajesh Jain, S/o. Late Shri Dhanyakumar Jain, Aged About 50 Years, R/o. Ward No. 17, Police Station- Manendragarh, Tahsil- Manendragarh, District- Koriya Chhattisgarh.

**---- Petitioners**

**Versus**

State Of Chhattisgarh, Through : Police Station Incharge, Manendragarh, District -Koriya Chhattisgarh.

**-----Respondent**

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| For Petitioners      | : Mr. Prateek Sharma, Advocate      |
| For Respondent/State | : Mr. Ashish Shukla, Govt. Advocate |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**26/07/2017**

Heard on admission.

1. It is submitted by the counsel for the petitioners that complainant – Suresh Puri lodged an FIR against petitioners alleging that on 11.03.2017 at 10.30 pm, petitioners along with other co-accused trespassed the go-down of the complainant and have stolen the building materials, 4 quintals of iron rod and iron angles from the said go-down. Police has investigated the case and charge-sheet has been

filed in the Court of J.M.F.C., Manendragarh, where the petitioners have been charged for the offence U/s. 448, 457, 427 and 380 of I.P.C. by the order dated 04.11.2016. It is submitted that a revision was preferred before the Court of First Additional Sessions Judge, Manendragarh, District – Koriya bearing Cr.R. No. 3/2017, which was decided vide order dated 30.05.2017, in which the order passed by the trial Court has been upheld. It is further submitted on behalf of the petitioners that on the basis of material on record, no offence is made out against the petitioners and they entitled to be discharged. Hence prayed that impugned order be set-aside.

2. It is further submitted by the counsel for the petitioners that Tahsildar, Manendragarh has submitted report that concerned go-down is situated at Plot No.422/83, which is under the ownership of the petitioners and others. Hence the allegation made by the complainant that trespass and theft has been committed on the property in his occupation is false allegation.
3. Counsel for the State has opposed the grounds in the petition and the arguments submitted in this behalf.
4. Perused the documents on record. Complainant lodged a written report in P.S. - Manendragarh on 11.03.2017 that he came to know that his go-down is trespassed and construction material kept therein has been stolen and the petitioners and others are responsible for this offence. After registering FIR, investigation has been conducted and statement of witnesses has been recorded.
5. It is undisputed that building adjoining to the disputed go-down is in possession of the petitioners and others and the wall of the go-down was broke open towards the adjoining building. As per the statement of

the witness, the allegations of theft and trespass is against the petitioners.

6. In the matter of framing of charges against the accused persons, the Court has to limit itself in finding a prima-facie case with respect to the commission of offence lodged in the prosecution case. The evidence on record appears to be sufficient to this effect. The dispute raised regarding the situation of go-down on the land of the petitioners and co-accused persons is matter of defence as by itself it can not be determined that go-down was in possession of the petitioners themselves.
7. Reliance has been placed on the judgment passed by the Supreme Court in case of ***State of Bihar Vs. Murab Ali Khan***, reported in ***AIR 1989 SC -1***, in which it was held that while considering to exercise jurisdiction under Section 482 of Cr.P.C., High Court has to see only whether complaint prima-facie discloses alleged commission of offence, the High Court can not go into question whether offence can be established by the evidence or not.
8. Considering the case in hand it appears, the grounds raised in this petition are substantial grounds to be raised in defence. It is not for this Court to appreciate the evidence in the prosecution case and come to the conclusion whether the offence charged holds any ground or not. It is open to the petitioners who are accused in the case to defend themselves on the ground available to them in the trial Court and establish their innocence.
9. It is settled law that inherent jurisdiction of the High Court under Section 482 of Cr.P.C. has to be exercised sparingly, carefully and with precaution and only when such exercise is justified in tests specifically

laid down in section itself and in the rarest of rare cases. Hence in conclusion, it is found that this is not a case where the inherent jurisdiction under Section 428 of Cr.P.C. can be exercised.

10. For these reasons, this petition is dismissed at motion stage itself.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge

Balram