

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**TPCR No. 10 of 2018**

1. Arjun Prasad Chandrwanshi S/o Fagu Ram Aged About 75 Years R/o Village Dalpuria, P. S. Piparia, Tehsil And District Kawardha Chhattisgarh
2. Narad Prasad S/o Sagar Singh Aged About 56 Years Occupation Agricultures, R/o Village Pandaria, P. S. Piparia, Tehsil And District Kawardha Chhattisgarh

---- Petitioners**Versus**

1. Dani Ram S/o Gajanand Chandrawanshi Aged About 70 Years
2. Narendra Ram S/o Daniram Chandrawanshi Aged About 37 Years
3. Mahendra S/o Daniram Chandrawansi Aged About 34 Years
4. Uma Bai W/o Daniram Chandrawansi Aged About 55 Years

Respondents 1 to 4 are residents of Village Dongariya, Police Chowki Pandatarai, P. S. Kunda, District Kawardha Chhattisgarh

5. The State Of Chhattisgarh Through Police Chowki Pandatarai, P. S. Kunda, District Kawardha Chhattisgarh

---- Respondents

For Petitioners	:	Shri A.K. Prasad, Advocate
For Respondents 1 to 4	:	Shri Avinash Mishra, Advocate
For Respondent 5/State	:	Shri Ramakant Pandey, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

27/8/2018

1. Heard on admission.
2. This is an application filed under Section 407 of the Code of Criminal Procedure, 1973 for transferring Sessions Trial No. 200/2000 (State of Chhattisgarh Vs. Dani Ram and others) pending before the Second Additional Sessions Judge(FTC), Mungeli, Sessions Division, Mungeli to

the Court of Sessions at Kawardha (CG).

3. Learned counsel for the petitioners submits that the place of incident is village Dongariya which comes into revenue district/Sessions Court, Kawardha, therefore, the case should be transferred to Sessions Court, Kawardha. He further submits that all the witnesses as well as the accused persons are residents of village Dongariya/Pandatarai which comes within Sessions Division, Kawardha and inconvenience is caused to them in coming to the Court of Additional Sessions Judge, Mungeli.

4. On the other hand, learned counsel for the respondents submit that earlier the case was tried by Second Additional Sessions Judge (FTC), Mungeli in the year 2000 and the judgment was delivered by the said Court on 27.8.2002 and against the said judgment, Criminal Revision No. 472/2002 was preferred before this Court and case was remitted back to the Second Additional Sessions Judge(FTC), Mungeli by this Court, therefore, it is not a case to be transferred to the Court of Kawardha. They further submit that the distance between village Dongariya to Mungeli is about 20 km and no inconvenience is caused to anyone in coming to the Court at Mungeli.

5. In the present case, offence as alleged was committed in the year 1999-2000 and the respondents were charge-sheeted in the year 2000 for commission of offence under Sections 304 B and 498A of the I.P.C. The trial was concluded before the Second Additional Sessions Judge (FTC), Mungeli and judgment was delivered on 27.8.2002 by the said Court.

6. In the year 2000, Kawardha was not a Sessions Division and Judicial Magistrate First Class posted there had no jurisdiction over Police Station

Kunda that is why charge-sheet was filed before the Judicial Magistrate First Class, Mungeli having jurisdiction over Police Station Kunda.

7. Jurisdiction is settled as per the date of incident and place of incident. In the present case, on the date of incident, Court at Kawardha had no jurisdiction for trial of the case. The Additional Sessions Judge(FTC), Mungeli tried the case for years together and after conclusion of trial, revision was filed before this Court in the year 2002, which was decided in the year 2016. The case was remitted back to Second Additional Sessions Judge(FTC), Mungeli by this Court. When on the date of incident, the place of incident was not within jurisdiction of Kawardha Court, the case cannot be transferred to the Court of Sessions Kawardha after 18 years of the incident. Again, the matter has been remitted back to the Second Additional Sessions Judge(FTC), Mungeli by this Court and no such plea was raised before this Court during revision which was pending for 16 years.

8. No affidavit is filed regarding distance of village Dongariya to Mungeli. The respondents side have submitted that distance of Mungeli to Donagirya is about 20 km and there is nothing on record for rebuttal of the same. Looking to the distance, the theory of inconvenience is also not substantial.

9. For the foregoing reasons, the application is dismissed at the motion stage itself.

Sd/

(Ram Prasanna Sharma)
Judge

