

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 90 of 2010**

Gwal Das Sahu, aged about 62 years, S/o Sahdeo Sahu, Cultivator,
R/o Mahasamund, Tahsil & District- Mahasamund (C.G.)

---- Appellant

Versus

1. Bajranglal Agrawal, aged about 55 years, S/o not known.
2. Rajeh Kumar, aged about 35 years, S/o Bajranglal Agrawal.
3. Manish Kumar, aged about 28 years, S/o Bajranglal Agrawal.
All Mill owners & residents of Mahasamund, Tahsil & District-
Mahasamund (C.G.)
4. State of Chhattisgarh, through the Collector, Mahasamund
(C.G.)

---- Respondents

For Appellant : Mr. Viprasen Agrawal, Advocate.

For Respondents 1 & 3 : Mr. Sanjay Pathak, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board**

05/10/2018

1. This acquittal appeal is preferred under Section 378 (4) of the Code of Criminal Procedure, 1973 against judgment dated 26.08.2008 passed by Judicial Magistrate First Class, Mahasamund (C.G.) in Criminal Complaint Case No. 474/2007, wherein the said court acquitted all the respondents for commission of offence under Section 290 & 427 of IPC.
2. As per the case of the appellant, he is owner of agricultural land bearing Khasra No. 211 area 1.431 hectare situated at village- Pitiyajhar adjacent to Surya Rice Mill and M.P. Rice Mill of the respondents where the Par-Boiled-Rice is produced. It is alleged that all the respondents are constantly

draining their used Par-Boiled-polluted-salty water after boiling paddy outside their rice mill which accumulated into the said land causing damage to the crop sown by the appellant. There is great pollution in the entire atmosphere effecting the health of the appellant and neighbours. The trial court after hearing the parties, acquitted the respondents as mentioned above.

3. Learned counsel for the appellant submits as under:-

(i) The trial court has failed to see that the rice mill in question is property of the respondents causing pollution in the atmosphere, therefore, finding arrived at by the trial court is not sustainable.

(ii) The trial court should have inspected the spot and assessed the pollution causing in the field, but the same has not done, therefore, finding arrived at by the trial court is liable to be reversed.

4. On the other hand, leaned counsel for the respondents No. 1 & 3 submits that the finding arrived at by the trial court is based on evaluation of entire evidence, which is not liable to be interfered with invoking jurisdiction of the appeal.

5. The case of the appellant is based on statement of Gwaldas Sahu (PW-1) & Itwariram (PW-2). Itwariram (PW-2) has not supported version of the prosecution. As per version of the appellant, water draining from rice mill is polluting his cultivating land causing damage to crop of paddy. The appellant has made complaint against three persons, but

there is no record that actually who is owner of the said rice mill controlling activity of the said rice mill. The person who is in-charge of rice mill is only responsible person for draining polluted water, but from evidence of the appellant, it is not clear regarding the person responsible for the act of the rice mill.

6. The trial court has evaluated the evidence and came to conclusion that in absence of documentary evidence offences charged are not established. After going through the entire record, this Court has no reason to record contrary finding. However, if the respondents have not made any drainage system up to now, they are advised to do the needful for proper drainage of water and to see that any polluted water will not cause damage to the property of the appellant.
7. With these observations, the acquittal appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge