

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.821 of 2017**

Mangal, S/o Babudas Manikpuri, aged about 58/59 years, R/o Purani Basti,
Kota, Police Station Kota, District Bilaspur, Chhattisgarh

---- Applicant**versus**

State of Chhattisgarh, through the Station House Officer, Police Station Kota,
District Bilaspur, Chhattisgarh

--- Respondent

For Applicant	:	Shri Malay Shrivastava, Advocate
For Respondent	:	Shri U.K.S. Chandel, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****8.1.2018**

1. The instant revision has been preferred against the order dated 21.7.2017 passed by the 9th Additional Sessions Judge, Bilaspur in Sessions Trial No.64 of 2015 framing charges against the Applicant under Sections 120B and 201 of the Indian Penal Code.
2. Case of the prosecution, in nutshell, is that a missing report was lodged in Police Station Kota that Jawahar Dadsena (deceased) was going on a motorcycle bearing registration No.MP 26 KC 2937 from Lormi to Bilaspur on 19.5.2001, but he did not reach Bilaspur. On 23.5.2001, a decomposed dead body was found near Jogipur in the field which was identified by Latelram to be of Jawahar Dadsena on the basis of the articles found near the dead body. Autopsy could not reveal the mode or cause of death because decomposition of the dead body was in advance stage as the body was found late after about 7-8 days of death. First Information Report for offence punishable under Sections 302, 201 and 120B of the Indian Penal Code was registered against unknown person. Statements of as many as 20 witnesses were recorded under Section 161 of the Code of Criminal Procedure. On completion of

the investigation, a charge-sheet was filed against Rakesh Jaiswal, Jai Kumar alias Ajay Yadav and present Applicant Mangal. During pendency of the *lis*, co-accused Jai alias Ajay died. On 27.9.2016, the Trial Court framed charges against co-accused Rakesh for offence punishable under Sections 302/34, 302/120B and 201/120B of the Indian Penal Code. Against the order framing charges, co-accused Rakesh has preferred Criminal Revision No.956 of 2016 before this Court and this Court vide order dated 25.7.2017 allowed the revision of Rakesh and set aside the charges and discharged him. On 21.7.2017, the Trial Court framed charges against present Applicant Mangal under Sections 120B and 201 of the Indian Penal Code that he along with co-accused Jai Kumar (dead) and Rakesh (discharged) did illegal act of disappearance of evidence and along with Jai Kumar caused disappearance of evidence.

3. Learned Counsel appearing for the Applicant submitted that no cogent evidence is available against the Applicant to connect him with the crime in question. There is nothing on record to show that the Applicant was involved in the alleged offence. It is apparent that nothing has been stated by any of the witnesses regarding involvement of the Applicant in causing death of Jawahar Dadsena by conspiring or by any overt act or by covert act. Co-accused Rakesh, who is the main accused (as per the prosecution story) has already been discharged. Therefore, it is not proved by any cogent evidence that the Applicant has committed any act of disappearance of any evidence from which it was attributed that the Applicant was involved in the alleged commission of murder of Jawahar Dadsena. The memorandum statement given by the co-

accused is not admissible in evidence and the statements of other witnesses of the prosecution are also not sufficient for prosecution against the Applicant. Therefore, the present revision may be allowed and the Applicant may be discharged from prosecution.

4. Learned Counsel appearing for the State, supporting the impugned judgment, argued that on the basis of the memorandum statement of the Applicant, one tractor-trolley bearing registration No.CG 10 A 0293 was seized from him. After the incident, dead body of Jawahar Dadsena was thrown with the assistance of the said tractor-trolley being driven by the Applicant and the said tractor-trolley was recovered and seized from the Applicant on the basis of his memorandum statement itself. Therefore, a *prima facie* case is made out against the Applicant under Sections 120B and 201 of the Indian Penal Code.
5. I have heard Learned Counsel appearing for the parties and perused the record with utmost circumspection.
6. Admittedly, the tractor-trolley bearing registration No.CG 10 A 0293 belongs to Nagar Panchayat Kota, District Bilaspur. As per the statements of Prakash and Vishnu recorded under Section 161 of the Code of Criminal Procedure, the Applicant was the driver of the said tractor-trolley. As per the statement of Shantibai, she had seen the Applicant with co-accused Jai Kumar alias Ajay Yadav going in the said tractor-trolley. Except this, there is nothing on record to show that there was any involvement of the Applicant in the crime in question. There is also no evidence on record to show that the dead body of Jawahar Dadsena was carried in the said tractor-trolley. Co-accused Rakesh Jaiswal (allegedly main

accused), by order of this Court dated 25.7.2017 passed in Criminal Revision No.956 of 2016, has been discharged from prosecution under Sections 302/34, 302/120B, 201/120B of the Indian Penal Code.

7. A minute scrutiny of the evidence available on record reveals that nothing has been stated by any of the prosecution witnesses regarding involvement of the Applicant in the offence in question. From the foregoing, I find nothing against the Applicant to prosecute him for the alleged offence.
8. Consequently, the revision is allowed. The impugned order framing charges against the Applicant under Sections 120B and 201 of the Indian Penal Code is set aside and he is discharged from prosecution.
9. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge