

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 330 of 2009

1. Ramnarayan @ Rajesh S/o Late Bisouha Sahu, Aged about 27 years, R/o Village Kusmi, Police Station and Tahsil Bemetara, District Durg (C.G.)
2. Rajkumar @ Tekuram S/o Late Bisouha, Aged about 22 years, R/o Village Kusmi, Police Station and Tahsil Bemetara, District Durg (C.G.)
3. Sukhbatu Bai Wd/o Late Bisouharam Sahu, Aged about 49 years, R/o Village Kusmi, Police Station and Tahsil Bemetara, District Durg (C.G.)

---- Petitioners

Versus

- Chameli Bai, We/o Laxminaryan Sahu, Aged about 26 years, R/o Village Kusmi, At Present Saldha, Police Station Bemetara, District Durg (C.G.)

---- Respondent

For Petitioners – Shri Amit Kumar Sahu, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

20-12-2019

Heard.

1. This revision petition has been brought challenging the legality, propriety and correctness of the order dated 09-04-2009 passed in Criminal Revision No.126/2005 by the Additional Sessions Judge, F.T.C., Bemetara, (C.G.) allowing the revision petition filed by the respondent and setting aside the order dated 02-04-2005 passed by the Additional CJM, Bemetara in Criminal Case No.248/2004 by which complaint of the respondent was dismissed under Section 203 of the Cr.P.C.
2. It is submitted by learned counsel for the petitioners that the impugned order is erroneous and suffering from infirmity. It has been clearly admitted by the complainant/respondent herself in her evidence before the charge that the petitioners and the respondent are relatives to each other and there is litigation between them regarding the dispute of property. The petitioners have also filed a civil suit and the litigation in that civil case is pending before this High Court, as second appeal filed by the petitioners. Therefore, it was not a case of

commission of offence. The learned appellate Court has wrongfully appreciated facts and circumstances and evidence of the case. Therefore, the impugned order is not sustainable.

3. Respondent is not represented.

4. Heard learned counsel for the petitioners and perused the record.

5. On perusal of the record of the trial Court, it is found that in the evidence recorded by the learned trial Court before charge in the complaint case, the respondent/complainant has made admissions in cross-examination regarding pendency of civil litigation between her and the petitioners. Therefore, it is a case where the petitioners are also asserting their claim over the disputed property from which paddy was harvested by them, on the basis of that claim the learned trial Court has rightly appreciated this fact and held that the necessary ingredients for commission of offence of theft are missing. The learned appellate Court has without appreciating this admission in the evidence by the respondent passed the impugned order which appears to be erroneous, incorrect and illegal. Therefore, this revision petition is allowed and the impugned order is set aside and the order of the trial Court is restored.

Sd/-

(Rajendra Chandra Singh Samant)
Judge