

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 687 of 2010

Ayub Khan S/o. Haji Sekh Rahman Khan, Aged about 43 years,
R/o. Rengakhar Khurd Tahsil and District Kabirdham (Kawardha)
(C.G.)

----Applicant

Versus

State of Chhattisgarh through District Magistrate Kawardha
District Kabirdham (C.G.)

---- Respondent

For Applicant : Mr. Ajit Singh, Advocate
For Respondent/ State : Ms. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board passed on 02.01.2019

By the judgment under challenge passed on 13-12-2010 by Sessions Judge Kabirdham, Kawardha in Criminal Appeal No. 42 of 2009, the findings recorded by the learned Judicial Magistrate Second Class Kabirdham, convicting the accused/applicant under Sections 147 and 341/149 IPC and sentencing him to undergo RI for six months and pay fine of Rs. 500/- under Section 147 IPC, SI for one month and pay fine of Rs.500/- under Section 341/149 IPC with default stipulation.

2. Case of the prosecution, in brief, is that on 13.01.2003, the accused/applicant herein along-with many others restrained the officials of the Forest Department when they had gone to the Boramdev Forest area to stop them from cutting the trees and trying to collect the wood already cut, and thus caused obstacles

in the discharge of their public duties. Even when the Forest officials were getting back, the accused/applicant and other villagers, did not let them do so by hindering their movement after blocking the road and thus wrongfully restrained them from discharging their public duties. On registration of case and completion of investigation, the challan was laid by the police under section 147 and 341/149 IPC.

3. Having taken into consideration the material on record, the trial Court convicted the accused/applicant under Sections 147 and 341/149 IPC and sentenced him to undergo RI for six months and pay fine of Rs. 500/- under Section 147 IPC, SI for one month and pay fine of Rs.500/- under Section 341/149 IPC. On appeal, learned lower appellate Court has affirmed the same. Hence, this revision.

4. A PUD has been received from Chief Judicial Magistrate, Kabirdham (Kawardha) which shows that the accused/applicant herein died on 18.03.2018 i.e. during the pendency of this revision. However, this Court has to decide the case on its own merits, in view of the order passed by the Constitution Bench of Supreme Court in the matter of **Pranab Kumar Mitra v. State of WB reported in AIR 1959 SC 144.**

5. Counsel for the applicant submits that the Court below has not given thoughtful consideration to the evidence on record while holding the accused/applicant guilty under Sections 147 and 341 /149 IPC and therefore the judgment impugned is liable to be set

aside. He further submits that the applicant has died on 18.03.2018.

6. State counsel however supports the judgment under assail and submits that the Courts below have recorded the well reasoned finding while writing the judgment impugned and therefore, no interference there-with is needed by this Court.

7. Heard the State counsel and perused the evidence on record.

8. Having gone through the evidence of PW-4, PW-5 and PW-6 who have duly supported the case of the prosecution, it is clear that a group of villagers led by the accused/applicant had restrained the officials of the forest department from discharging their official duties, this Court does not see any legal error in the findings recorded by both the Courts below convicting the accused/applicant under Sections 147 and 341/149 IPC and imposing the sentence as show above. The judgment impugned is hereby maintained.

9. Revision therefore being without any substance is liable to be dismissed and it is dismissed as such.

Sd/-
(Vimla Singh Kapoor)
JUDGE