

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 608 of 2008

Auab Khan S/o. Haji Rahaman Khan, Aged about 41 years, R/o.
Rengakhar Khurd Tahsil and District Kabirdham (Kawardha) (C.G.)

----Applicant

Versus

State of Chhattisgarh through the Superintendent of Boramдав
Reservoir Forest Department, Tahsil Kawardha, District
Kabirdham (C.G.)

---- Respondent

For Applicant : Mr. Ajit Singh, Advocate

For Respondent/ State : Mr. Aman Kesharwani P. L.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board passed on 14.03.2019

By the judgment under challenge passed on 25-08-2008
by Sessions Judge Kabirdham, Kawardha in Criminal Appeal No.
13 of 2008, the findings recorded by the learned Judicial
Magistrate First Class Kawardha, convicting the
accused/applicant under Sections 27,29,51 of the Wild Life
Animal Protection Act read with section 2(2) of the Protection of
Forest Act, 26(1) (Ka)(Cha) (Chha) and (Ja) of Indian Forest Act
1927 and u/s 3 of the Prevention of Damages of Public Property
Act and sentencing him to undergo RI for 1 year u/s 27,29,51 of
the Wild Life Animal Protection Act read with section 2(2) of the
Protection of Forest Act, RI for six months u/s 26(1) (Ka)(Cha)
(Chha) and (Ja) of Indian Forest Act 1927 and RI for 1 year and to

pay fine of Rs. 1000/- u/s 3 of the Prevention of Damages of Public Property Act plus default stipulation.

2. Case of the prosecution, in brief, is that on 11.11.2002, the accused/applicant herein along-with many others restrained the officials of the Forest Department when they had gone to the Bhoramdev Forest area to stop them from cutting the trees 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.

3. Having taken into consideration the material on record, the trial Court convicted the accused/applicant under Sections 27,29,51 of the Wild Life Animal Protection Act read with section 2(2) of the Protection of Forest Act, 26(1) (Ka)(Cha) (Chha) and (Ja) of Indian Forest Act 1927 and u/s 3 of the Prevention of Damages of Public Property Act and sentenced him to undergo RI for 1 year under Sections 27,29,51 of the Wild Life Animal Protection Act read with section 2(2) of the Protection of Forest Act, RI for six months u/s. 26(1) (Ka)(Cha) (Chha) and (Ja) of Indian Forest Act 1927 and RI for 1 year and to pay fine of Rs. 1000/- u/s. 3 of the Prevention of Damages of Public Property Act. 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 27,29,51 of the Wild Life Animal Protection Act read with section 2(2) of the Protection of Forest Act, 26(1) (Ka)(Cha) (Chha) and (Ja) of Indian Forest Act 1927 and u/s 3 of the Prevention of Damages of Public Property Act 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-2, PW-3, PW-6 and PW-8 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 27,29,51 of the Wild Life Animal Protection Act read with section 2(2) of the Protection of Forest Act, 26(1) (Ka)(Cha) (Chha) and (Ja) of Indian Forest Act 1927 and u/s 3 of the Prevention of Damages of Public Property Act 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

Santosh