

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 352 of 2008

1. Auab Khan S/o. Haji Rahaman Khan, Aged about 41 years, R/o. Rengakhar Khurd, Tahsil and District Kabirdham (Kawardha) (C.G.)
2. Dharam Singh S/o. Khorbahara Merawi, Aged about 45 years, resident of Badhutola, thana Kawardha, District Kabirdham
3. Bihari Singh S/o. Rupau, Aged about 42 years, resident of Chhapri, Thana & Tahsil kawardha, District Kabridham (C.G.)

----Applicant

Versus

State of Chhattisgarh through the Superintendent of Bhoramdav 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 24.04.2019

By the judgment under challenge passed on 12.05.2008 by Sessions Judge Kabirdham, Kawardha in Criminal Appeal No. 15 of 2008, the findings recorded by the learned Judicial Magistrate First Class Kawardha, convicting the accused/applicant under Sections 27 and 29 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 them to undergo RI for 1 year u/s 27 and 29 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 28.11.2002, the accused/applicant herein along-with many others restrained the officials of the Forest Department when they were discharge their public duties. The applicants have also cut the trees and performed cleaning that area for the purpose of construction of dam. The Forest officials approached the site and resisted the applicants and other villagers but 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 and 29 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 them to undergo RI for 1 year under Sections 27 and 29 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. Counsel for the applicant submits that the Court below has not given thoughtful consideration to the evidence on record while holding the accused/applicants guilty under Sections 27 and 29 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 No.1 has died on 18.03.2018.

5. 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.

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

7. 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 and 29 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 shown above. The judgment impugned is hereby maintained.

8. As far as the sentence part of the applicants No. 2 and 3 is concerned, looking to the fact that the incident had taken place 17 years ago and the applicant No. 2 and 3 have already remained in jail for a period of 1 month 17 days and deposited fine amount imposed on them, in my opinion, no useful purpose is going to be served in again sending them to jail. Accordingly, their sentence is reduced to the period already undergone by them.

Sd/-
(Vimla Singh Kapoor)
JUDGE