

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Revision No.92 of 2013

Luddhak Ram Chandravanshi, S/o Late Ramchandra Chandravanshi, aged about 30 years, R/o Village Lakhanpur, Post Podi, P.S. & Tahsil Bodla, District Kabirdham (C.G.)

---- Petitioner

Versus

State of Chhattisgarh, Through the Police Station Bodla, Tahsil Bodla, District Kabirdham (C.G.)

---- Respondent

ANDWrit Petition (Cr.) No.106 of 2013

1. Luddhak Ram Chandravanshi, S/o Late Ramchandra Chandravanshi, aged about 30 years, R/o Village Lakhanpur, Post Podi, P.S. & Tahsil Bodla, District Kabirdham (C.G.)
2. Jogiram, S/o Suhktu Marar, aged about 60 years, Occupation Agriculturist, R/o Village Minminiya, P.S. and Tahsil Bodla, District Kabirdham (C.G.)
3. Sukhwantin Bai, W/o Jogiram, aged about 57 years, R/o Village Minminiya, P.S. and Tahsil Bodla, District Kabirdham (C.G.)

---- Petitioners

Versus

1. The State of Chhattisgarh, Through the District Magistrate, Kabirdham, P.S. Kabirdham, Tahsil & District Kabirdham (C.G.)
2. The Superintendent of Police, Kabirdham, P.S. Kabirdham, Tahsil & District Kabirdham (C.G.)
3. The Station House Officer, Bodla, P.S. and Tahsil Bodla, District Kabirdham (C.G.)
4. Baldev Verma S/o Late Takhat Verma, Aged about 55 years, R/o Village Lakhanpur, P.S. and Tahsil Bodla, District Kabirdham (C.G.)
5. Badri Prasad Verma, S/o Late Takhat Verma, aged about 50 years, R/o Village Lakhanpur, P.S. and Tahsil Bodla, District Kabirdham (C.G.)
6. Vinod Verma, S/o Baldev Verma, aged about 40 years, R/o Village Lakhanpur, P.S. and Tahsil Bodla, District Kabirdham (C.G.)
7. Smt. Jhulabai, W/o Badri Verma, aged about 48 years, R/o Village Lakhanpur, P.S. and Tahsil Bodla, District Kabirdham (C.G.)
8. Smt. Fuleshwari, W/o Baldev Verma, aged about 50 years, R/o Village

Lakhanpur, P.S. and Tahsil Bodla, District Kabirdham (C.G.)

---- Respondents

For Petitioners:	Mr. Rajat Agrawal and Mr. Abhishek Chandravanshi, Advocates.
For Respondent(s) / State of Chhattisgarh: -	Mr. Ghanshyam Patel, Govt. Advocate.
For Respondents No.4 to 8 in W.P.(Cr.)No.106/2013: -	Mr. P.K.C. Tiwari, Senior Advocate with Mr. Shashi Bhushan Tiwari, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/04/2019

1. Since common question of law and fact is involved in these two petitions, they have been heard together and are being disposed of by this common order.
2. Three petitioners – Luddhak Ram Chandravanshi, Jogiram and Sukhwantin Bai have been charge-sheeted by the jurisdictional police for commission of offence under Sections 120B, 302 read with Section 34 and 194 read with Section 34 of the IPC. The allegation is that the petitioners have tied the hands and legs of deceased Jageshiya Bai and administered poison to her and thereby caused her death. Luddhak Ram Chandravanshi has filed criminal revision against the order framing charge whereas, all the petitioners have filed writ petition for directing for further investigation. It is admitted position on record that all the prosecution witnesses have been examined and statements of the accused under Section 313 of the CrPC have also been recorded and now, pursuant to the interim order granted by this Court, argument has not been heard and it is awaiting the outcome of this batch of petitions.
3. Mr. Rajat Agrawal and Mr. Abhishek Chandravanshi, learned counsel appearing for the petitioners, submits that it is a case where the deceased made dying declaration in presence of Dr. Aavesh Bagde (PW-7) examined before the trial Court and in presence of Smt. Anamika (PW-

6) – Staff Nurse, but that was not considered deliberately to implicate the present petitioners, therefore, it requires further investigation. They would further submit that in para 4 of her evidence, Smt. Anamika (PW-6) has refuted the fact of dying declaration.

4. Mr. P.K.C. Tiwari, learned Senior Counsel appearing for respondents No.4 to 8 in W.P.(Cr.)No.106/2013 and Mr. Ghanshyam Patel, learned State counsel, would submit that Dr. Aavesh Bagde (PW-7) has already been cross-examined by the petitioners at length and as such, it is the subject-matter of trial which has already been concluded except argument and judgment, therefore, it would be preempting the issue, rather the trial Court be directed to consider the evidence and proceed further in accordance with law.
5. I have heard learned counsel for the parties, considered their submissions made herein-above and also gone through the record with utmost circumspection.
6. Charge-sheet was filed against the petitioners on 23-10-2012 and charges against all the three petitioners were framed by order dated 31-12-2012. The offence is said to have been committed on 25-6-2012. Petitioner No.1 – Luddhak Ram Chandravanshi questioned the order framing charge only on 5-2-2013 by filing criminal revision and petitioners No.2 & 3 did not prefer any revision challenging the order framing charge, however, the three petitioners later on, on 2-9-2013 preferred writ petition for directing further investigation. As such, there is a delay of more than one year in filing petition seeking further investigation filed by the petitioners and in para 7 of the writ petition, it has been declared that there is no delay in filing the writ petition. To attack on the fact of dying declaration, if any, the petitioners could have preferred petition right in time immediately after the charge-sheet is filed on 23-10-2012, but the

writ petition was filed after one year on 2-9-2013 with no explanation for delay which creates doubt on the bona fides of the petitioners claiming further investigation, particularly when Dr. Aavesh Bagde (PW-7) and Staff Nurse Smt. Anamika (PW-6) have been cross-examined on the question of alleged dying declaration of deceased Jageshiya Bai and thus, taking into consideration that the entire prosecution witnesses have already been examined and they have been subjected cross-examination by the accused persons without reserving any right, it cannot be held that the petitioners have made out a case for directing further investigation at this stage where the trial is at the verge of conclusion. So far as the order framing charge is concerned, since the entire prosecution witnesses have been examined, I do not consider it a fit case for holding that no charges are required to be framed against petitioner No.1 – Luddhak Ram Chandravanshi.

7. In sum and substance, I do not find any merit in both the petitions, both the petitions (criminal revision and writ petition) deserve to be and are hereby dismissed leaving the petitioners to raise all the pleas during the course of trial. Parties shall bear their own cost(s).
8. A copy of the order be sent to the concerned court by E-mail / fax for needful.

Sd/-
(Sanjay K. Agrawal)
Judge