

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.231 of 2013**

1. Dashoda Bai, wife of Devdhar Patel, aged about 30 years,
 2. Devdhar Patel, son of Trilochan Patel, aged about 35 years,
- Both are residents of Village Thakurdiya, Police Station Pithora,
District Mahasamund, Chhattisgarh

---- Applicants**versus**

The State of Chhattisgarh through the Collector, Mahasamund,
Chhattisgarh

--- Respondent

For Applicants	:	Shri Vikash Pradhan, Advocate
For Respondent	:	Shri K.K.Dewangan, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****7.3.2019**

1. This revision has been preferred against the order dated 4.3.2013 passed by the 1st Additional Sessions Judge, Mahasamund in M.Cr.C. No.8 of 2013, whereby the Additional Sessions Judge has rejected the application under Section 5 of the Limitation Act as well as the criminal appeal preferred by the Applicants against the judgment of conviction and sentence dated 3.4.2012 passed by the Judicial Magistrate First Class, Pithora, District Mahasamund in Criminal Case No.382 of 2011. By the judgment dated 3.4.2012, the Judicial Magistrate First Class has convicted the Applicants under Section 447 of the Indian Penal Code and sentenced each of them with fine of Rs.500/- with default stipulation.
2. As per the prosecution story, Complainant Gopal Patel made a complaint alleging that he had planted paddy in his field situated at Village Thakurdiya. Allegedly, the Applicants illegally entered his field and they also planted paddy in his field. An objection was

raised by him, but the Applicants did not stop. On the basis of the complaint, an offence was registered. After investigation, a charge-sheet was filed. After trial, the Judicial Magistrate First Class, vide the judgment dated 3.4.2012, convicted the Applicants for the offence punishable under Section 447 of the Indian Penal Code and sentenced each of them with fine of Rs.500/-. Being aggrieved by the judgment of conviction and sentence, the Applicants moved a criminal appeal before the 1st Additional Sessions Judge, Mahasamund along with an application under Section 5 of the Limitation Act for condonation of delay in filing the appeal. Vide the impugned order dated 4.3.2013, the Additional Sessions Judge has rejected the application under Section 5 of the Limitation Act as also the criminal appeal on the ground of limitation. Hence, the instant revision.

3. I have heard Learned Counsel appearing for the parties and perused the records with due care.
4. From perusal of the impugned order dated 4.3.2013 itself, it is clear that on the date of conviction of the Applicants, i.e., on 3.4.2012, both were present in the Court and they also deposited the amount of fine in the Court on 3.4.2012 itself. Thus, the ground raised by them before the Appellate Court that they were not aware of the judgment of conviction and sentence is not in accordance with the facts and evidence available on record. Therefore, the Appellate Court has rightly rejected the application under Section 5 of the Limitation Act.
5. Consequently, I find no merit in this revision. It is, therefore, dismissed.

- 6.** Records of the Courts below be sent back along with a copy of this order for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge