

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 450 of 2019

State of Chhattisgarh, Through - Forest Range West Bande, District - North Bastar Kanker, District – Kanker (C.G.)

---- **Petitioner**

Versus

Nirmal Deonath, S/o Deenbandhu Deonath, Aged about 48 years, R/o Village Bande, Police Station Bande, District - North Bastar Kanker (C.G.)

---- **Respondent**

For State/ Petitioner : Shri A.N. Bhakta, Dy. Advocate General.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

28/03/2019

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in (1996) 3 **SCC 132**, the delay of 205 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 12th April, 2018 passed by Judicial Magistrate First Class, Pakhanjur, District – North Bastar, Kanker (C.G.) in Criminal Case No. 193/2017, wherein the said court acquitted the respondent for

commission of offence under Section 33 (1) (a) & (c) of Indian Forest Act, 1927 (for short “the Act, 1927”) for damaging the reserve forest Range No. PF/1261 area 0.887 hectare and for clearing the land for cultivation of the said protected forest.

5. In the present case, no notification was produced or proved before the trial Court that any kind of cultivation is done within the protected forest. No piece of map filed to show that area in which the land is cleared for cultivation is within the territory of protected forest.
6. In absence of notification and map and further demarcation of the land, it is not established that anything was done within the territory of protected forest. It is also not clear as to when the area was cleared by the respondent. Any person is liable under Section 33 of the Act, 1927 only when the person does something against the notification and against prohibited clause, but in the present case, date of notification is not established, therefore, there was nothing to say that anything is done after notification.
7. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondent is not established. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition.

8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

N.Mohle