

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.563 of 2019**

- Bhola Ram Jain S/o Late Bhojraj Jain Aged About 68 Years
R/o Village- Borampurkala, Police Station- Khairagarh,
District- Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Station House Officer, Police
Station- Khairagarh, District- Rajnandgaon, Chhattisgarh.
2. Jagdish Agrawal S/o Siyaram Brahman Aged About 56 Years
R/o Village- Singhour, Police Station- Khairagarh, District-
Rajnandgaon, Chhattisgarh.,
3. Santu S/o Pardeshi Lodhi Aged About 50 Years R/o Village-
Singhour, Police Station- Khairagarh, District- Rajnandgaon,
Chhattisgarh.
4. Shatruhan S/o Khorbahra Lodhi Aged About 45 Years R/o
Village- Singhour, Police Station- Khairagarh, District-
Rajnandgaon, Chhattisgarh.
5. Goverdhan S/o Rikhi Ram Brahman Aged About 71 Years R/o
Village- Singhour, Police Station- Khairagarh, District-
Rajnandgaon, Chhattisgarh.
6. Bhunwa @ Bhanupratap S/o Late Firan Raut Aged About 45
Years R/o Village- Singhour, Police Station- Khairagarh, District-
Rajnandgaon, Chhattisgarh.
7. Choti @ Deendayal S/o Mahangu Ram Lodhi Aged About 60
Years R/o Village- Singhour, Police Station- Khairagarh, District-
Rajnandgaon, Chhattisgarh.

---- Respondents

For the Petitioner : Ms. Aditi Singhal, Advocate

For Respondent No.1/State : Mr. Afroj Khan, Panel Lawyer

For other Respondents : None present

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****02.5.2019.**

1. Heard on IA No.01 for condonation of delay in filing the
petition.

2. On due consideration and for the reasons mentioned in the application, the same is allowed and the delay of 570 days in filing the petition is hereby condoned.

3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.

4. This petition is preferred against the judgment dated 24.5.2017 passed by Additional Chief Judicial Magistrate, Khairagarh, Distt. Rajnandgaon (CG) in Criminal Case No.449/2006 wherein the said Court acquitted all the respondents for the charges under Sections 147, 447, 379 and 427 of the Indian Penal Code.

5. In the present case, name of the complainant is Bhola Ram Jain who is alleged to be the owner of the land bearing Survey No.939 situated at village Singhori. It is alleged that he has sown paddy crop in the said land and on the date of incident, i.e. on 08.11.1984 the respondents made unlawful assembly entered into the said land by committing trespass and committed theft of paddy and also caused mischief by damaging the paddy valued more than Rs.1500/-.

6. To substantiate the charges, the complainant had examined Anaru Bai (PW-1), Deb Charan (PW-2) and Netram. As per the version of Bhola Ram, one Deb Charan and Ramji informed him about the incident. Ramji did not examine before the trial Court, therefore, the only person who informed Bhola Ram regarding the incident is Deb Charan. Deb Charan deposed before the trial Court that the incident took place on 28.6.1984. This witness did not dispose anything regarding the incident happened on

08.11.1984 on which date the incident happened as per the complainant. Though Netram deposed that the incident took place on 08.11.1984 but this witness has not deposed regarding the date of incident in his statement recorded before the trial Court under Section 200 CrPC.

7. The trial Court elaborately discussed the entire evidence and recorded finding that commission of offence by all the respondents is under cloud looking to the entire evidence adduced before the said Court. The trial Court further opined that there is dispute regarding land in question between the parties and the witnesses adduced by the complainant side are interested witnesses. The finding arrived at by the trial Court is based on relevant material placed on record and is not based on irrelevant and extraneous materials. If two views are possible, the view in favour of the accused should be accepted. Looking to the facts and circumstances of the case, this Court has no reason to record a contrary finding. It is not a case where interference of this Court is required. This not the case where the respondents should be called for full consideration of the case.

8. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE