

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 528 of 2010**

The State of M.P.

---- Petitioner**Versus**

1. Jagannath, S/o - Kishorilal Agrawal, aged about - 68 years, R/o Bharotal Sura Kachhar, Police Station Kusmunda, District Bilaspur, (C.G.)
2. Ashok Kumar, S/o - Ghasiram Dubey, aged about - 32 years, R/o Village Gatori, Police Station Koni, Distt.-Bilaspur, (C.G.)
3. Ajay Kumar, S/o - Ram Awatar Mishra, aged about - 30 years, R/o - Chhoti Koni, Police Station Koni, District -Bilaspur, (C.G.)

---- Respondents

For State/petitioner : Shri Afroj Khan, Panel Lawyer for the State/petitioner.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****27/03/2019**

1. Heard on the application filed under Section 378(3) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
2. This petition is preferred against judgment dated 19.03.1998 passed by Judicial Magistrate First Class, Katghora, District Bilaspur in Criminal Case No. 92/97 wherein the said Court acquitted the respondents for the charge under Section 414 of IPC, 1860.
3. The respondents have been charge-sheeted on account of seizure of copper wire and some broken utensils. Ravindra Nath Mukhopadhyay (PW-2) deposed before the trial Court that copper

wire which is seized in the present case is available in open market for sale. From the entire evidence, it is not clear that article of copper wire was having specific mark or it is not available in open market. No identification is done in the present case regarding any claim that copper wire seized in the present case is removed from others possession.

4. Ram Awatar Agrawal (PW-5) deposed before the trial Court that he is owner of the factory which made utensils and he sold the utensils to respondent Jagarnath. Ex. P-4 is the document by which utensils were sent to Jagarnath. No one examined before the trial Court who claim that utensils seized in the present case was removed from his possession. Unless removal is established, it cannot be held that respondents are liable for receiving stolen property knowing it to be stolen goods. The trial Court after evaluating the entire evidence recorded finding that charges leveled against the respondent is not established.
5. Looking to the reasoning of the trial Court, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition.
6. Accordingly, application for grant to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge