

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRR No. 1096 of 2019

1. Vivek Ranjan Tiwari S/o Premsagar Tiwari Aged About 23 Years R/o Village Baghdadola, Police Station Pusour, District Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through District Magistrate, Raigarh District Raigarh Chhattisgarh.

--- Respondent

For Petitioner	Shri Arvind Dubey, Advocate
For Respondent/State	Shri Pawan Kesharwani, Panel Lawyer

Hon'ble Shri Prashant Kumar Mishra, J.Hon'ble Shri Gautam Chourdiya, J.Order on BoardByPrashant Kumar Mishra, J.18-9-2019

1. This revision is directed against the judgment rendered by the Sessions Judge, Raigarh, allowing the acquittal appeal preferred by the State to set aside the judgment of acquittal rendered by Shri Vivek Garg, Judicial Magistrate First Class, Raigarh, in Cr.Case No.492 of 2011 vide its judgment dated 27-9-2018 relating to offence under Sections 420, 467 & 468 read with Section 34 of the Indian Penal Code.

2. We are not narrating the nature of allegations against the accused for the reason that the trial Magistrate acquitted the accused on the ground that the prosecution has failed to tender evidence.
3. While rendering the impugned judgment the Sessions Judge has observed that after filing of the charge sheet on 29-8-2011 the charges were framed on 28-9-2011, thereafter Criminal Revision was preferred before the Sessions Court and the original records were sent to the revisional Court. The records were received back by the Trial Magistrate on 4-4-2015 and the trial was fixed for evidence. On 7-6-2016 the accused Bhagwati Soura was absent, therefore, warrant of arrest was issued against her. She was arrested and released on bail on 20-7-2016. Subsequently, accused Heeralal Dhoba moved an application and the trial was posted for reply to that application and the same was eventually decided on 20-3-2018. On and after this date the matter was fixed for recording of evidence of prosecution witnesses, but either summons were not issued or the bailable warrant issued against the witnesses were not received back served or unserved. The trial Magistrate closed the prosecution evidence on 18-9-2018 and thereafter, dismissed the application under Section 311 Cr.P.C. moved by the prosecution on 26-9-2018.
4. Perusal of the papers particularly the facts and events mentioned in the judgment rendered by the Sessions Judge would reveal that all the three stake holders of the justice delivery system namely; the prosecution; the accused; and the trial Magistrate have done well to see that a fair and impartial

trial does not proceed against the accused. While the matter remained pending at the revisional Court or on account of moving application by the accused, the trial Judge did not take care to monitor issuance of summons and/or service of bailable warrant. Similarly, the agency entrusted with the task of service of bailable warrant did not perform its duty to serve the summons or the bailable warrants to the witnesses to secure their presence. The facts of the case does not project well of the criminal justice system. The Sessions Court has rightly set aside the order passed by the trial Magistrate.

5. As a result, the instant criminal revision, *sans* merit, is liable to be and is hereby dismissed.
6. A Copy of this order be served on Shri Vivek Garg, Judicial Magistrate First Class, Raigarh, reminding him the principle that '*Justice hurried is Justice buried*'.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge

Gowri