

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2638 of 2018**

Trilok Verma, S/o Konda Verma, Aged About 52 Years, R/o Semariya Chowki, Khandsara, Police Station- Bemetara, District- Bemetara (C.G.)

---- **Petitioner**

Versus

1. Santosh, S/o Bhakku Sahu, Aged About 45 Years.
2. Nandkumar, S/o Hite Yadav, Aged About 35 Years.
3. Ramkumar, S/o Nanku Sahu, Aged About 47 Years.

Respondent No. 1 to 3 are R/o Semariya Chowki, Khandsara, Police Station- Nawagarh, District- Bemetara (C.G.)

---- **Respondents**

 For Petitioner : Mr. Bharat Rajput, Advocate.
 For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

31/01/2019

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, the same is allowed and delay of 33 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 30.08.2018 passed by Judicial Magistrate First Class, Bemetara (C.G.) in Criminal Case No. 373/2018, wherein the said court acquitted all the three respondents for commission of offence under Sections 447, 427 & 427/34 of IPC, 1860.

5. In the present case, the land in question is Survey No. 800 area admeasuring 0.17 Hectare and it is alleged that the respondents cut the trees standing over the said land. The complainant/ appellant deposed before the trial court (Para 4) that the land in question is government land. He again admitted that for removal of encroachment, one case was instituted before Tahsildar and after termination of the proceeding, there was order for removal of encroachment by the said authority.
6. From evidence of the complainant/ appellant himself, it is clear that he has encroached the government land and without permission of the competent authority, cultivated the said land and there was some tree over the land. No document was filed before the trial court by the complainant/ appellant that he has legally occupied the said land, therefore, it is established that the appellant was in illegal possession of the said land which was removed by respondents who are authorities of Gram Panchayat.
7. Sections 447 & 427 of IPC are applicable in the cases of valid possession of the property. If the possession itself is illegal, Sections 447 & 427 cannot be invoked.
8. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondents is not established. After reassessing the entire evidence, 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. Accordingly, application for grant of leave to appeal is rejected.

9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun