

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.86 of 2019**

- Om Prakash Sharma S/o Late Mohan Lal Sharma Aged About 45 Years R/o Village- Chilhatikala, Police Station- Doundilohara, District- Balod, Chhattisgarh.

---- Petitioner**Versus**

1. Chintamani S/o Ramadhar Aged About 27 Years R/o Village- Chilhatikala, Police Station- Doundilohara, District- Balod, Chhattisgarh.
2. Top Singh S/o Chamaru Ram Aged About 53 Years R/o Village- Chilhatikala, Police Station- Doundilohara, District- Balod, Chhattisgarh.
3. Siya Ram S/o Bhagwat Aged About 45 Years R/o Village- Chilhatikala, Police Station- Doundilohara, District- Balod, Chhattisgarh.
4. Budh Lal S/o Bhagwat Aged About 43 Years R/o Village- Chilhatikala, Police Station- Doundilohara, District- Balod, Chhattisgarh.
5. Hori Lal S/o Sukhdeo Aged About 54 Years R/o Village- Chilhatikala, Police Station- Doundilohara, District- Balod, Chhattisgarh.
6. Ram Das S/o Johan Aged About 47 Years R/o Village- Chilhatikala, Police Station- Doundilohara, District- Balod, Chhattisgarh.
7. Chinta Ram S/o Tulsi Ram Aged About 26 Years R/o Village- Chilhatikala, Police Station- Doundilohara, District- Balod, Chhattisgarh.

---- Respondents

For the Petitioner	: Smt. Hamida Siddique and Shri Sumit Singh Rathore, Advocates
For the respondents	: None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

10.01.2019.

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, the delay of 152 days in filing the petition is hereby condoned.

3. Also heard on application for grant of leave to appeal under Section 378(4) of CrPC.

4. This petition has been preferred against judgment of acquittal dated 27.4.2016 passed by Judicial Magistrate First Class, Dondilohara Distt. Balod (CG) in Criminal Case No.77/2014 wherein the said Court acquitted all the seven respondents for the charge under Section 500 of the Indian Penal Code, 1860.

5. As per the version of the petitioner, land bearing Survey No.448 (new survey No.509 & 510) belongs to him but the same is incorrectly recorded as grass bir or fodder reserve as mentioned under Section 237(b) of the Chhattisgarh Land Revenue Code, 1959. The respondents and other villagers tried to use the land and some altercation took place between both the sides and the respondents asked the complainant if they will not be allowed to use the land they will excommunicate him. It is further further case of the complainant that the matter was published in the news paper as per Ex-P/18.

6. From the record it appears that dispute between the parties is whether the land in question is fodder reserve or it belongs to the petitioner. If any record is incorrectly prepared, parties have recourse to get it corrected as per the provisions of Chhattisgarh Land Revenue Code, 1959 (for short 'the Code') but that is not done. From the evidence it is not clear that any of the respondents published anything defamatory against the petitioner. From the news paper (Ex-P/18) it appears that all the villagers

have made complaint before the authorities that the petitioner has encroached Government land and his illegal possession should be removed which is the matter of enquiry and it can be adjudicated by the authorities as per the provisions of the Code. As all the villagers have made complaint it cannot be said that only the respondents are responsible for the said complaint. It is not a case where any act is done intending to harm or knowing reason to believe that it will harm the reputation of the complainant. On the contrary, the complaint made by the villagers is regarding illegal encroachment and therefore, the same is bonafide.

7. It is not a case where any statement is made by any of the respondents with a criminal intention and words of excommunication is used only on account of encroachment. Therefore, the trial Court opined that the criminal act on the part of any of the respondents is not established. After reassessing the entire evidence, this Court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the petition.

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

Sd/-

(Ram Prasanna Sharma)
JUDGE