

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2242 of 2019

State of Chhattisgarh Through Forest Range Officer, West Bande,
District North Bastar Kanker, Chhattisgarh. ----- **Petitioner**

Versus

Ramesh Rai S/o. Manmohan Rai, Aged About 70 Years, R/o.
Village Bande, Police Station Bande, District North Bastar Kanker
Chhattisgarh. ----- **Respondent**

For State/petitioner : Mr. D.K. Tiwari, Dy. G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

09.03.2020

1. Heard on I.A. No.1/2019, which is an application for condonation of delay in filing the instant petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in (1996) 3 **SCC 132**, the delay of 427 days in filing the petition is condoned.
3. Heard on application for grant of leave to appeal filed under Section 378(3) of Cr.P.C.
4. This petition is preferred against the judgment dated 12.04.2018 passed by learned Judicial Magistrate First Class, Pankhajur, District- North Bastar, Kanker (C.G.) in Criminal Case No. 194/2017 wherein the said Court has acquitted the respondent for commission of offence under Sections 33(1) A & C of the Indian Forest Act, 1927 for clearing the Protected Area of Bande village, West Paralkoat Forest Range Division, District North Bastar Kanker, Compartment No. PF/1261, Area 0.551 hectare and making hut in the said land.

5. To substantiate the charge the prosecution has examined as many as 9 witnesses. No one deposed before the trial Court that as to who measured the area of Protected Forest. No one deposed before the trial Court regarding map of the Protected Area. In absence of demarcation or in absence of map of protected area the trial Court recorded finding that interfere with the protected forest on the part of the respondent is not established.
6. View taken by the said Court is one of the plausible view It is settled law that if two views are possible, the view which is favourable to the respondent/ accused, should be accepted. There is nothing on record to convert order of acquittal into conviction.
7. The trial Court after evaluating the entire evidence recorded finding that charge leveled against the respondent is not established. After going through the records it is not a case where interference of this Court is required with the judgment of the trial Court. It is also not a case where respondent should be called for hearing again for full consideration of this petition.
8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
 Judge