



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Writ Petition No. 192 of 2023

Vasantrao S/o Haribhau Meshram,
aged about 73 years,
Occupation – Retired,
R/o Ward No. 4, Lakhani,
Tah. Lakhani, Dist. Bhandara.

... Petitioner

... Versus ...

(1) Forest Development of
Maharashtra, through its
Range Forest Officer, FDCM,
Nagpur Road, Bhandara,
Tah. and Dist. Bhandara.

(2) The State of Maharashtra,
through Collector, Bhandara,
Tah. and Dist. Bhandara.

... Respondents

Mr. N. B. Kalwaghe, Advocate for the petitioner
Mr. A. R. Chutake, APP for respondent no. 2
None for respondent no. 1

CORAM : ANIL L. PANSARE J.

DATED : 24-8-2023

ORAL JUDGMENT

Rule. Rule made returnable forthwith. With consent, the
petition is heard finally.

2. The petitioner herein was accused before the learned
Magistrate. Respondent no. 1/original complainant is Forest

Development Corporation of Maharashtra. Respondent no. 2 is State of Maharashtra and was not party before the trial. Parties will be hereinafter referred to by their original nomenclature.

3. The complaint appears to have been filed under Section 200 of the Code of Criminal Procedure, 1973 (Code) read with Section 26(1)(f) of the Forest Act. The learned Magistrate issued process. The accused appeared. The complainant led evidence. He examined two witnesses. Thereafter he filed application seeking permission to lead secondary evidence vide Exhibit 37. The application came to be rejected by the learned Magistrate. The complainant assailed the said order before the learned Sessions Court by way of revision bearing No. 7/2023. The learned Sessions Court has allowed the revision but without issuing notice to the accused.

4. It appears that the revisional Court has heard the complainant but did not give even opportunity to the accused of putting his case. The order is apparently perverse, considering the purport of sub-section (2) of Section 401 of the Code. Hence following order :

(i) The petition is allowed.

(ii) The impugned judgment and order dated 28-2-2023 passed by the Sessions Judge, Bhandara in Criminal Revision No. 7/2023 is quashed and set aside.

(iii) Criminal Revision No. 7/2023 is restored on the file of the Sessions Judge, Bhandara. The learned Sessions Judge shall proceed with the revision in accordance with the law in the sense after giving opportunity of hearing to the accused.

(iv) The parties to appear before the Sessions Court, Bhandara on 4-9-2023.

5. Rule is made absolute accordingly.

(Anil L. Pansare, J.)

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