

The Court of JM 1st Class, Ramgarh**Present: Smriti Tripathi****Judicial Magistrate****19th January, 2023****District: Ramgarh****G.R. Case No. 831/2006-A****CNR No. JHRG030000262006****Mandu PS Case No. 99/2006**

Informant	State (Through Charles D'Cruz)
Represented By	<i>Smt. Manju Kachchap, Id. APP</i>
Accused	1. Rajesh Kumar s/o Nandkishor Yadav, male, aged about 35 years, r/o village Gondalpur, Badam, PS Barkagaon, District Hazaribagh [A1] 2. Mangal Vishwakarma s/o Megnath Vishwakarma, male, aged 35 yrs., village Charhi, PS Charhi, District Hazaribagh [A2] 3. Binod Karmali s/o Tibha Karmali, male, aged about 38 years r/o village Gondalpur, Badam, PS Barkagaon, Dist. Hazaribagh[A3]
Represented By	<i>Sri Dhiresh Thakur, Ld. Adv.</i>

Date(s) of Offence	28.03.2006
Date of FIR	28.03.2006
Date of Chargesheet	26.05.2006
Date of framing of charge	17.05.2019, 18.05.2022
Date of Commencement of evidence	25.06.2019, 07.06.2022
Date when Judgment is reserved	19.01.2023
Date of Judgment	19.01.2023
Date of Sentencing Order, if any	N/A

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of detention undergone during trial for purpose of s. 428, CrPC
A1	Rajesh Kumar	28.03.06	06.06.06	u/s. 414, IPC, 30(2), CM Act & 33, IF Act	Acquitted	None	N/A
A2	Mangal Vishwakarma	28.03.06	06.06.06		Acquitted	None	N/A
A3	Binod Karmali	28.03.06	06.06.06		Acquitted	None	N/A

J U D G M E N T

1. The aforementioned accused persons (hereinafter referred to as “**A1 to A3**”) are facing trial for charges framed u/s. 414 of The Indian Penal Code, 1860 (Hereinafter referred to as the “**IPC**”), s. 33 of the Indian Forest Act, 1927 (Hereinafter referred to as the “**IF Act**”). and s. 30(2) of The Coal Mines (Nationalisation) Act, 1973 (Hereinafter referred to as the “**CM Act**”).

2. The compendious **case of the prosecution** as sourced from the written statement S.I. Charles D’Cruz, O/C of Mandu PS (hereinafter referred to as the “**informant**”) is, that in the night of 27.03.2006, he was on patrolling duty with police personnel B.K. Kisku, Jagdish Gope, Kishori Mahto, Mahendra Prasad Mehta, Akhilesh Singh on government vehicle bearing registration no. JH02A-1865 when, at about 4:00am, he received information from secret informer on his mobile phone that in the forest area near village Hendegarha, Coal Mafias are illegally stealing and loading coal on tractors to sell them in outside markets for gain. On this information, he and his team reached the place of alleged incident at about 4:00am and saw one tractor coming towards him from the opposite side. Upon seeing the police vehicle, three persons on that tractor tried to flee away leaving the tractor behind but were apprehended by the police. They were asked their names and about the loaded coal, to which they could neither produce any paper w.r.t the coal loaded on their tractor, nor tell the name of the tractor owner or any satisfactory reply. Thus, this case.

3. After investigation, the Investigating Officer submitted **charge-sheet** bearing no. 36/2006 dated 26.05.2006 against A1 to A3 for the offence u/s. 414/34 of IPC, 33 IF Act & 30(2) of CM Act and thereafter, **cognizance** was taken under the same sections against them by the Id. predecessor court on 26.05.2006.

4. On 03.05.2019, record of A2 and A2 was split from the original due to their non-appearance, and after supply of police papers, on 17.05.2019 **charge** was framed u/s. 414/34 of IPC, 33 IF Act & 30(2) of CM Act and read over to A1 in simple Hindi to which he pleaded not guilty and claimed to be tried and the record was advanced for prosecution evidence. On 18.05.2022, charge was framed under the same sections and read over and explained to A2 and A3 in simple Hindi to which he pleaded not guilty and claimed to be tried and their record was also advanced for prosecution evidence.

5. On 04.01.2023, as both the records were running for prosecution evidence, they were amalgamated. After closing the **prosecution evidence** on 19.01.2023, the material

brought by prosecution was put to A1 to A3 and their respective **statements u/s. 313 of CrPC** were recorded in which they denied the material available against them and claimed to be innocent.

6. Thereafter, the defence was provided with an opportunity to adduce evidence on its behalf, if any but the Id. counsel for defence submitted that they do not want to adduce any evidence. Upon their prayer, the **defence evidence** was closed and the matter was posted for arguments.

7. The prosecution did not argue much due to lack of evidence.

8. The defence on the other hand argued that a false case has been lodged and no offence as alleged is made out. It was also submitted that the prosecution has failed to prove the guilt of A1 to A3 beyond reasonable doubt.

9. Now, the Court will consider as to whether the prosecution has been able to substantiate the charges levelled against A1 and A2 beyond reasonable doubt or not. On the bedrock of the charges framed, the prosecution case will be examined on the following touchstones for the sake of a more structured analysis:

9.1 Whether A1 to A3 shared common intention and voluntarily assisted in concealing 2 tons of coal in a tractor knowing or having reason to believe that it was stolen property?

9.2 Whether A1 to A3 extracted coal from mines illegally without having any permit order from the competent authority?

9.3 Whether A1 to A3 were carrying illegal coal; which is a forest produce, on their trucks?

10. Now, the Court will consider as to whether the prosecution has been able to substantiate the charges levelled against A1 beyond reasonable doubt or not. But, before the court dwells to consider the same, it would be apt to enlist the evidences brought in this case by all sides for the sake of brevity and proper reference:

List of Prosecution/Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence
--- nil ---		

B. Defence:

Rank	Name	Nature of Evidence
--- nil ---		

List of Prosecution/Defence/Material Exhibits**A. Prosecution:**

Sr. No.	Exhibit Number	Description
--- nil ---		

B. Defence:

Sr. No.	Exhibit Number	Description
--- nil ---		

B. Material Objects:

Sr. No.	Exhibit Number	Description
--- nil ---		

FINDINGS

Whether A1 to A3 shared common intention and voluntarily assisted in concealing 2 tons of coal in a tractor knowing or having reason to believe that it was stolen property?; Whether A1 to A3 extracted coal from mines illegally without having any permit order from the competent authority?; Whether A1 to A3 were carrying illegal coal; which is a forest produce, on their trucks?

11. For the sake of brevity, all the points of consideration are taken up together. Having gone through the material available on record, this court finds that despite being given ample opportunities spreading over almost four years during which the record was running awaiting prosecution evidence, the prosecution has not examined any witness at all or any other nature of evidence. The case of the prosecution is shorn of even a single piece of evidence which could point towards the guilt of A1 to A3.

12. Thus, this court is of the considered opinion that the prosecution has failed to substantiate the charge u/s. 414/34 of IPC, 33 IF Act & 30(2) of CM Act. Hence, the A1 to A3 are hereby **acquitted** in this case of the charge. A1 to A3 as well as their respective bailors stand discharged from the liabilities of their respective bail bonds.

Pronounced by me in open court.

(Dictated and corrected)

Sd/-

Sd/

(Smriti Tripathi)

JO Code: JH02021

JM 1st Class, Ramgarh

Ramgarh, dated the 19th January, 2023

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