

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
KODERMA.**

Present : Vaishali Srivastava,
Chief Judicial Magistrate,
Koderma.

Koderma, dated the 23rd Day of September, 2022.

District : Koderma.

C. Case No.208 of 2018.

T.R. No.1599 of 2022

CNR No.JHKD030009532018



State of Jharkhand (Through : **B.O**)

..... Informant.

Represented by : Smt. Anjilina Barla, Ld. APP.

Versus

- 1. Mahboob Mian**, aged about 41 years,
S/o late Husaini Mian,
- 2. Usman Mian**, aged about 62 years,
S/o Mahboob Mian,
- 3. Manjoor Mian**, aged about 40 years,
S/o Shakoor Mian,
- 4. Anwar Mian**, aged about 43 years,
S/o Shakoor Mian,
- 5. Minhaj Mian**, aged about 45 years,
S/o Sahdul Mian,
- 6. Imtiyaz Mian**, aged about 41 years,
S/o Mustakim Mian,
- 7. Safdar Mian**, aged about 27 years,
S/o Mustakim Mian,
- 8. Israil Mian**, aged about 36 years,
S/o Mustakim Mian,

9. Barik Mian, aged about 33 years,
S/o Mustakim Mian,

10. Arif Mian, aged about 42 years,
S/o Mustakim Mian,
All R/o Village – Gadi,
P.S. Markacho,
Distt.- Koderma.

..... Accused Persons.

Represented by	: Md. Anwar Hussain, learned Adv.
Date of the offence	: 16.02.2018.
Date of FIR	: 17.02.2018.
Date of Charge-sheet	: 18.05.2018.
Date of Explanation of Substance	: 16.04.2019.
Date of commencement of evidence	: 30.05.2019.
Date on Judgment is reserved	: 23.09.2022.
Date of the Judgment	: 23.09.2022.
Date of Sentencing Order, if any	: NA.
Rank of the Accused	: A-1 to A-10.
Name of the Accused	: Mahboob Mian, Usman Mian, Manjoor Mian, Minhaj Mian, Safdar Mian, Imtiyaz Mian, Arif Mian, Israil Mian, Anwar Mian and Barik Mian.
Date of Arrest/Surrender	: 06.10.2018 & 09.10.2018.
Date of Released on Bail	: 06.10.2018 & 09.10.2018.
Offences Charges with	: u/s.33 of I. F. Act.
Whether Acquitted or Convicted	: Acquitted.
Sentence Imposed	: None
Period of Detention undergone during Trial for purpose of Sec.428 of Cr.P.C.	: None.

List of Prosecution/Defence/Court witnesses :

Prosecution : No witness adduced by the prosecution.

Defence : No witnesses adduced by the defence.

Court Witness : None

List of Exhibits : None

J U D G M E N T

1. The above named accused persons have faced trial for commission of the offence u/s.33 of I. F. Act.

2. The prosecution case in brief as contained in the offence report of the informant Forest Guard, Vidyanand Tiwari has stated therein that on dated 16.02.2018, survey of boundary was done in Gadi protected forest in presence of him and other forest officials. After measuring, it was found that accused persons had constructed pakka house and boundary wall in the forest land. Therefore, he reported the offence to the Forest Range Officer and prayed to take legal action against the accused persons.

3. Thereafter, the prosecution report was submitted and the cognizance of the offence u/s.33 of I. F. Act was taken against the accused persons vide order dated 01.06.2018 passed by this court.

4. The proceedings against the accused namely Dilawar Mian has been dropped vide order dated 15.09.2022 due to his death during trial.

5. On 16.04.2019, the substance for the offence u/s.33 of I.

F. Act was explained against the accused persons and it was read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried.

6. Thereafter, the case was fixed for prosecution evidence. Subsequently, all the processes were issued against the witnesses but the prosecution failed to examine any witness in this case. Subsequently, after providing sufficient opportunities, the prosecution evidence was closed vide order dated 15.09.2022.

7. I have heard the arguments on behalf of the prosecution as well as the defence.

8. The point for determination in this case is that as to whether the prosecution has been able to prove its case against the accused persons beyond the shadows of all reasonable doubts or not ?

F I N D I N G S

9. From the perusal of case record, it appears that in the present case the substance was explained to the accused persons on 16.04.2019 and thereafter the case was fixed for the prosecution evidence. The processes were issued against the witnesses but despite all efforts taken by the court, no prosecution witness has been produced and examined on behalf of the prosecution. Eventually, the prosecution evidence was closed on 15.09.2022. Not a single witness has been produced by the prosecution to substantiate its case against the accused persons despite sufficient opportunities given by this court. All the processes for attendance of prosecution witnesses were

exhausted by the court but no evidence has been adduced by the prosecution and there is no incriminating materials available on record against the accused persons. Hence, this is turn out to be a case of no evidence.

10. In view of the foregoing discussions, I find that the prosecution has not been able to prove its case for the offence u/s.33 of I. F. Act against the accused persons beyond the shadows of all reasonable doubts. Hence, the accused persons namely **Mahboob Mian, Usman Mian, Manjoor Mian, Minhaj Mian, Safdar Mian, Imtiyaz Mian, Arif Mian, Israil Mian, Anwar Mian and Barik Mian** are found not guilty and they are hereby acquitted of the accusation for the offence u/s.33 of I. F. Act. They are on bail and hence they and their sureties are discharged from the liabilities of their bail bonds.

Any process issued against any of the concerned in this case by this court which is still not executed, are hereby recalled as un-executed.

(Dictated and corrected by me)

(Pronounced by me in open court)

sd/-
(Vaishali Srivastava)
Chief Judicial Magistrate
Koderma
23.09.2022

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(Vaishali Srivastava)
Chief Judicial Magistrate
Koderma
23.09.2022