

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 293 of 2004

Judgment reserved on : 20.12.2016

Judgment delivered on : 23.12.2016

- Dhirvadas, S/o Shri Ramcharan Banjare, r/o Gevra Town, PS Kusumanda, district Korba (CG) ---- **Applicant**

Versus

- State of Chhattisgarh through PS Katghora, district Korba (CG) ---- **Respondent**

For Applicant : Shri Suryakant Mishra, Advocate
For Respondent/State : Shri Neeraj Sharma, Dy GA

Hon'ble Shri Justice Anil Kumar Shukla
CAV Order

1) This revision has been preferred against the judgment of conviction and order of sentence passed by the 4th Additional Sessions Judge, Bilaspur in Criminal Appeal No. 47 of 2003, by which the applicant has been convicted under Section 224 of the IPC and sentenced to undergo RI for one month and to pay fine of Rs. 200/-, in default of payment of fine, to further undergo RI for one month.

2) Prosecution story, in brief, is that Criminal Case- 1261 of 1989 was being heard in the Court of Judicial Magistrate First Class, Katghora in which present applicant was one of the accused. During the Court proceedings, he absconded on 06.11.1996 and thereby committed the offence punishable under Section 224 IPC. He has been convicted and sentenced as aforementioned.

3) I have heard learned counsel for the parties, perused the judgment impugned, copies of statements of the witnesses and other documents relevant to the present case.

4) Learned counsel for the applicant did not take any specific plea in the case. At the outset, he submitted that the applicant has been facing trial since the date of the incident. He served jail sentence for eight days; had already paid the fine amount imposed upon him; and had been granted bail by this Court on 18.05.2004. Therefore, he prays to reduce the sentence of the applicant imposed upon him to the period already undergone.

5) On the other hand, learned State counsel opposed the revision and supported the impugned judgment.

6) In exercise of revisional jurisdiction, this Court may examine the concurrent findings of the Courts below for the purpose of satisfying itself as to the correctness, legality or propriety of any finding of the impugned judgment.

7) It is not disputed that the applicant was absconded from Police custody and age of the applicant at the time of incident was 42 years. There is no criminal antecedents against him. He faced trial, appeal and the present revision for so many years and remained in custody for eight days.

8) Considering all the facts and circumstances of the case, also considering the age of the applicant and custody period as well as the period of trial, appeal and revision, ends of justice would be met

if the jail sentence is reduced to the period already undergone by the applicant.

9) Accordingly, on the basis of the aforesaid discussion, the revision filed by the applicant is hereby partly allowed. The conviction of the applicant under Section 224 IPC is hereby maintained. However, the sentence of the applicant is reduced to the period already undergone by him.

10) The applicant is on bail. His bail bonds are not discharged at this stage and shall remain operative for a period of six months in view of the provisions contained under Section 437-A of the Cr.P.C.

Sd/-
(Anil Kumar Shukla)
JUDGE