

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL REVISION NO. 754 OF 2016**

1. Shivkumar S/o Gumandas Koshle, aged about 32 years
 2. Bhuneshwar S/o Gumandas Koshle, aged about 20 years
- Both R/o Village Kesra, Police Station Simga, District Baloda Bazar-Bhatapara (C.G.)

... Applicants**Versus**

State of Chhattisgarh, District Magistrate, Balodabazar, District Balodabazar-Bhatapara (C.G.)

... Non-applicant

For Applicants	:	Mr. Anil Gulati, Advocate.
For Non-applicant	:	Mr. Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board**19/10/2016**

1. The present revision under Section 397 read with Section 401 of CrPC has been preferred by the Applicants against the order dated 16.5.2016 passed by Additional Sessions Judge, Bhatapara in Criminal Appeal No. 41R/2016. By impugned order dated 16.5.2016, the Court below has rejected the appeal preferred by the Applicants against the judgment dated 11.8.2015 passed by Judicial Magistrate First Class, Simga in Criminal Case No. 615/2013.

2. The Applicants were prosecuted for the offence punishable under Sections 294, 506-II and 448 of IPC and they were found guilty of having committed the said offences. For the offence under Section 294 of IPC they were punished with fine of Rs.500/- with default stipulation and further for the offence under Sections 506-II and 448 of IPC they were required to undergo simple imprisonment for 3 months and to pay fine of Rs.500/- with default stipulation. All the sentences were directed to run separately.

3. On the date of judgment passed by the Trial Court on 11.8.2015, the application filed by the Applicants under Section 389(3) of CrPC was allowed by the Trial Court. Thereafter, the Applicants could not file an appeal within a period of limitation and the appeal was finally filed on 10.5.2016 with a delay of about 9 months. The Appellate Court vide its order dated 16.5.2016 has rejected the application for condonation of delay and consequently the appeal also stood rejected, leading to the filing of the present revision petition.

4. Counsel for the Applicants submits that in this case the Applicants are in jail since 28.4.2011 and since then they have already put in about 6 months of imprisonment and that the maximum sentence which has been imposed upon the Applicants was of simple imprisonment of 3 months for the offence under Sections 506-II and 448 of IPC. He further prays that he would confine his argument to the extent that the sentence part may be modified to the extent that all the sentences may run concurrently and may not be consecutively as has been ordered by the Trial Court.

5. Considering the total facts and circumstances of the case particularly the nature of offence as also the sentence imposed by the Trial Court which is a simple imprisonment for each of the offences, this Court is of the opinion that as the Applicants have already remained in jail for a period of almost twice the maximum sentence which was imposed upon them, ends of justice would meet in case the impugned order of the Trial Court dated 11.8.2015 is modified to the extent that the sentence imposed upon the Applicants to run concurrently instead of consecutively or separately.

6. The revision petition is allowed to the extent that the conviction of the Applicants for the offence stands maintained but the sentence stands modified as stated above.

Sd/-

(P. Sam Koshy)
Judge