

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 286 of 2004

Order reserved on : 19.01.2017

Order passed on : 08.02.2017

- Lakhan Das, aged 34 years, s/o Resham Das Vaishnav, R/o Khapridih, PS Bilaigarh, district Raipur

---- Applicant

Versus

- State of Chhattisgarh through SHO Bilaigarh, District- Raipur (CG)

---- Respondent

For Applicant	:	Shri Ravindra Sharma, Advocate on behalf of Shri HV Sharma, Advocate
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Shri Justice Anil Kumar Shukla

CAV Order

- 1) This revision has been preferred against the judgment dated 05.05.2004 passed in Criminal Appeal No. 18 of 2004 by the Second Additional Sessions Judge, Baloda Bazar by which the judgment dated 03.01.2004 passed in Criminal Case No. 555 of 1995 by the Judicial Magistrate First Class, Baloda Bazar convicting the applicant for offence punishable under Section 392 of the IPC and sentencing him to undergo rigorous imprisonment for three years and to pay fine of Rs.500/-, in default of payment of fine, to further undergo RI for two months, has been altered and sentence of the applicant has been reduced to RI for six months. The applicant has already paid the fine amount.
- 2) Prosecution story, in brief, is that complainant- Badrikabai was residing in a hut with her children in her fields, two kilometres away from Tundry village to take care of the fields. On 28.06.1995 at 12.30 PM applicant- Lakhan Das came near the hut and asked her for some water.

He started chatting with Badrikabai and after sometime, came near to her and demanded for her *naagmori*, two silver ornaments which she was wearing on her hands. The applicant further threatened her of life, in case of not giving the said ornaments to him. When she refused to give the said ornaments to him, he snatched the ornaments from her, obtained the same and fled towards the riverside. The complainant made hue & cry and narrated the fisher men who were present there about the incident and asked them to catch the applicant who robbed her *naagmori*. Thereafter, the fishermen chased and caught the applicant, took him to Amaldeeha village, where Up-sarpanch Kheekdas, Sarpanch Pawan Maror, Kotwar, father of the complainant and many other villagers gathered and on enquiry, the applicant admitted the fact of robbing *naagmori* of the complainant and told the place where they had been kept by him. Thereafter, he was brought to Police Station Bilaigarh. After completion of investigation, charge-sheet was filed against the applicant in the Court of Judicial Magistrate First Class, Baloda Bazar. Criminal Case No.555 of 1995 was registered against the applicant and by the judgment dated 03.01.2004 he was convicted and sentenced as mentioned above in the first paragraph of this order. Being aggrieved by this judgment, the applicant preferred Criminal Appeal No. 18 of 2004 before the Court of Session at Baloda Bazar in which the Second Additional Sessions Judge, Baloda Bazar by judgment dated 05.05.2004 while confirming conviction of the applicant, reduced his sentence to RI for six months. This revision has been filed for setting aside the impugned judgment of the appellate Court.

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

4) Learned counsel for the applicant at the outset submits that he confines his argument to the sentence part only and does not challenge the conviction imposed upon the applicant. Addressing the sentence part awarded to the applicant, learned counsel submits that on the date of the incident, the applicant was aged about 34 years and now he is 56 years old. Out of the jail sentence of six months RI awarded to him, he has already undergone 35 days i.e above one month and deposited fine amount of Rs.500/- imposed upon him. There is no criminal antecedent against the applicant. The incident is of the year 1995 and already 22 years have passed. Therefore, learned counsel prays to reduce the sentence of the applicant imposed upon him to the period already undergone by him.

5) On the other hand, learned State counsel opposed the revision and supported the impugned judgment though not disputed the above facts.

6) It is not in dispute that the applicant is now 56 years old; there is no criminal antecedent against him and the present offence is his first one, for which he faced trial, appeal & the present revision for the past 22 years. He remained in custody for more than one month and the total sentence awarded to him is six months.

7) Considering all the facts and circumstances of the case, also considering that the present applicant is 56 years old, his custody period as well as the period passed in trial, appeal and revision, I am of the considered opinion that ends of justice would be met if the jail sentence

awarded to the applicant is reduced to the period already undergone by him. It would not be in the interest of justice to send him back to Jail after a long gap of 22 years.

8) 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 392 of the IPC is hereby maintained. However, his jail sentence is reduced to the period already undergone by him.

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

Sd/-
(Anil Kumar Shukla)
JUDGE

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