

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 300 of 2004

Order reserved on : 20.01.2017

Order passed on : 06.02.2017

- Shivcharan, s/o Bedram Satnami, aged about 30 years, R/o village Tundra, Tah- Bilaigarh, district Raipur (CG)

---- Applicant

Versus

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

---- Respondent

For Applicant : Shri Bharat Rajput, 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 14.05.2004 passed in Criminal Appeal No. 313 of 2003 by the First Additional Sessions Judge, Baloda Bazar by which the judgment dated 23.10.2003 passed in Criminal Case No.511 of 1993 by the Judicial Magistrate First Class, Baloda Bazar convicting the applicant for offence punishable under Section 379 IPC and sentencing him to undergo rigorous imprisonment for four months and to pay fine of Rs.500/-, in default of payment of fine, to further undergo RI for one month, has been affirmed. The applicant has already paid the fine amount and receipt of the same has been kept on the record.

2) Prosecution story, in brief, is that complainant- Narayan on 13.06.1993 at 7 am in the morning left his cattle for grazing. When the cattle did not return home in the afternoon, he searched for the same, but could not find the cattle. He lodged a missing report of the cattle on 19.06.1993 in the Police Station Bilaigarh. In between, on the basis of information by an informant, Dabara Police went to the cattle market of village Ghoghari and took possession of two buffaloes from the applicant on suspicion vide Ex.P/1 and registered Rojnamchasanha No.487 vide Ex.P/6. After completion of due procedure, Complainant- Narayan submitted receipt of purchase of the buffaloes for supurdnama. After completion of investigation, charge-sheet was filed against the applicant in the Court of Judicial Magistrate First Class, Baloda Bazar. Criminal Case No.511 of 1993 was registered against the applicant and by the judgment dated 23.10.2003 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. 313 of 2003 before the Court of Session at Baloda Bazar in which the First Additional Sessions Judge, Baloda Bazar by judgment dated 14.05.2004, dismissed the criminal appeal and affirmed the judgment of conviction and order of sentence passed by the Judicial Magistrate First Class, against which this revision has been preferred by the applicant.

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 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 30 years and now he is 54 years old. Out of the jail sentence of four months RI awarded to him, he has already undergone nearly 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 1993 and already 24 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 54 years old; there is no criminal antecedent against him and the present offence is his first one, that too is a petty issue, for which he faced trial, appeal & the present revision for the past 24 years. He remained in custody for nearly one month and the total sentence awarded to him is four months.

7) Considering all the facts and circumstances of the case, also considering that the present applicant is 54 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 24 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 379 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

padma