

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.1015 of 2017**

- Rakesh @ Bhola Kewat S/o Maniram Kewat, Aged About 20 Years R/o Village Mangla Panchayat, Police Station Civil Line, District Bilaspur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Civil Line Bilaspur, District Bilaspur, Chhattisgarh.

---- Non-Revisioner/Respondent

For Revisioner/applicant : Shri Jeet Patel, Advocate
 For respondent/State : Shri Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****23.11.2017**

1. This revision has been filed against the judgment dated 10.10.2017 passed by Fifth Additional Sessions Judge, Bilaspur (CG) in Criminal Appeal No.122/17 wherein the said Court affirmed the judgment of conviction and order of sentence passed by Chief Judicial Magistrate Bilaspur in Criminal Case No.4635/2012 for the offence punishable under Sections 457 and 380 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for two years and to pay fine of Rs.500/-, RI for one year and to pay fine of Rs.500/- with default stipulations.

2. Learned counsel for the revisioner submits that independent panch witnesses have not supported the version of the prosecution and there are material contradictions and omissions

in the version of the witnesses and again ingredients of offence is no made out. Even then, the trial Court had convicted the revisioner and the first appellate court affirmed the judgment passed by the trial Court.

3. On the other hand learned counsel for the State submits that there was house breaking and theft in the house of complainant Sewaram Sahu and on discovery statement of the accused/applicant, gold and silver ornaments were seized from the possession of the applicant and the same was identified by the complainant to be his property which was the subject of theft and therefore, finding and conviction is just and proper.

4. I have heard learned counsel for the parties and perused the material.

5. From the record of the trial Court it appears that gold and silver ornaments were seized from the possession of the applicant and the same was identified by the complainant to be his property. True it is the panch witnesses have not supported the version of the Police Officer, but the Police Officer should be kept on the same footing that of other witnesses. There is no substance to say that the Police Officer has any grudge against the applicant to rope him in false case. As per Section 114 of the Indian Evidence Act, 1872, when anyone is in possession of the property which is the subject matter of the theft it can be assumed that the same is obtained by stealing the property. Looking to the legal aspects of the matter, it cannot be said that the finding arrived at by both the

Courts below is not based on the sound principle of criminal jurisprudence.

6. True it is the FIR is delayed, but the case is not based on the direct evidence of theft and the case is based on seizure and identification of the property. So delay in lodging the report is not fatal to the prosecution looking to the nature of the case.

7. In the matter of revision, jurisdiction of the Court is very limited and unless any provision of law is flouted, finding of two Courts cannot be lightly interfered with. It is a case of theft in the house and the Courts have awarded sentences which cannot be termed out as disproportionate or unreasonable.

8. The revision is without substance and the same is dismissed at the motion stage itself. Consequently, IA No.01/17 for suspension of sentence and grant of bail to the applicant stands dismissed.

Sd/-

(Ram Prasanna Sharma)

JUDGE