

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 48 of 2009

Iqbal Ahmed son of late Shri Asgar Safi, aged about 50 years,
R/o Rata Khand, Near Mission School, PS Kotwali, Korba, CG

--- Applicant

Versus

State of Chhattisgarh through PS Railway Protection Force,
Post Champa, Chowki Korba, District Korba, CG

--- Respondent

For Applicant	-	None.
For Respondent	-	Shri Gary Mukhopadhyaya, GA

Order on Board by Hon'ble Smt. Vimla Singh Kapoor, J.

19.11.2018:

By this revision petition the applicant has assailed the judgment dated 17.11.2008 passed by Additional Sessions Judge (FTC), Bilaspur in Criminal Appeal No. 100/2008 affirming the judgment dated 04.09.2008 passed by Special Railway Magistrate Bilaspur in Criminal Case No. 2878/2007 convicting the accused/applicant under Section 3 (A) of the Railway Property (Unlawful Possession) Act, 1966 (for short the Railway Act) and sentencing him to pay Rs. 10,000/- as fine.

2. Facts of the case in short are that 11 meters of cable wire, 12 feet of copper wire and certain other railway property was seized under Ex. P-5 from the scrap shop of the accused/applicant which he is said to have purchased from one Lalit who had stolen the same from the signal charger room of the Railways on 10.10.2007.

It is worth mentioning here that the accused/applicant herein came in the picture on the basis of disclosure statement of accused Lalit who is alleged to have committed theft of the railway properties. After investigation, the prosecution of the accused/applicant moved ahead.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 3 (A) of the Railway Act and imposed the sentence of fine as above. The findings recorded by the trial Court have subsequently been confirmed by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.

4. There is a certificate dated 29.11.2011 issued by the Registrar, Birth and Death, Korba which shows that the accused/applicant herein died on 15.11.2011 i.e. during the pendency of this revision. However, this Court has to decide the case on its own merits, in view of the order passed by the Constitution Bench of Supreme Court in the matter of **Pranab Kumar Mitra v. State of WB** reported in **AIR 1959 SC 144**.

5. Here in this revision the applicant/accused remained unrepresented. State counsel however supports the judgment under assail and submits that the Courts below have recorded the well reasoned finding while writing the judgment impugned and therefore, no interference there-with is needed by this Court.

6. Heard the State counsel and perused the evidence on record.
7. Having heard counsel for the State and perused the material available on record including the evidence of PW-1, PW-2, PW-4 and PW-5 it gets crystallized that the property seized from the possession of the accused/applicant under Ex. P-5 was the Railways Property. The statements of all these witnesses are quite consistent and therefore there is no reason to disbelieve or discard the same. In this view of the matter, both the Courts below appear to have been fully justified in holding the accused/applicant guilty under Section 3 (A) of the Railways Act and therefore, no infirmity or illegality is visible in the judgment under assail.
8. Revision therefore being without any substance is liable to be dismissed and it is dismissed as such.

Sd/-

(Vimla Singh Kapoor)
Judge