

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 221 of 2007

1. Bhuneshwar, S/o Devnath Nishad, aged about 27 years, R/o Baikunth, P.S. Nevra, District – Raipur, CG.
2. Dharamraj @ Dharma S/o. Durgaiya Telgu, aged about 28 years, R/o Mopdapara, Baikunth, P.S. Nevra, District Raipur, CG.

---- Applicants

Versus

1. State of Chhattisgarh through District Magistrate, Raipur, CG.

---- Respondent

For Applicant : Shri C.R. Sahu, Advocate

For State/Respondent : Smt. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

03 /12/2018

By this revision petition the applicants have assailed the judgment dated 18.04.2007 passed by Additional Sessions Judge (FTC), Raipur in Criminal Appeal No. 01/2007 affirming the judgment dated 13.12.2006 passed by Judicial Magistrate First Class, Raipur in Criminal Case No. 1240/2006 convicting the accused/applicants under Section 394/34 IPC and sentencing them to undergo RI for three years with fine of Rs. 500/- each, plus default stipulation.

2. Facts of the case in short are that in the night of 26.04.1994, after alighting some passenger train at Baikunth Railway Station when the complainant was walking on the road along with his wife and children, three persons came to him and asked as to where they were to go. When the complainant tried to avert is query, all three snatched the wrist watch, cash of Rs. 500/- and ear ring of his wife worth Rs. 250/-. Subsequently, on the basis of suspicion he reported

the matter to the police and on his discloser statement the items including cash described above were seized from the possession of the accused/applicants. Axe and dagger were also seized from them. The articles so seized were identified by the complainant and also his wife in the presence of the witnesses. After registration of report under Section 394/34 IPC and 27 of the Arms Act, the matter was investigated culminating in filing of *challan* before the Court below.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted and sentenced the accused/applicants herein as above. The findings recorded by the trial Court have subsequently been affirmed by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.

4. Counsel for the accused/applicants submits that he is not pressing this revision as far as conviction part of the judgment challenged therein is concerned, and would confine his argument to its sentence part only. He submits that as the incident had taken place in the year 1994 and that the accused/applicants have already remained in jail for 86 days, the sentence imposed on them may be reduced to the period already undergone.

5. On the other hand, counsel for the respondent/State supports the judgment impugned as a whole.

6. Heard counsel for the parties and perused the evidence on record.

7. Having heard counsel for the parties and perused the material available on record including the evidence of complainant/victim (PW-3) and his wife (PW-4), it is apparent that the

accused/applicants have committed the offence alleged by robbing them of the cash, wrist watch and gold ear rings which were subsequently seized by the police on the discloser statement of the accused/applicants and duly identified by the complainant and his wife. Even the medical evidence also supports the case of prosecution stating that there was injury on the earlobe of the wife of the complainant. Considering all this, both the Courts below appear to have been fully justified in convicting the accused/applicants as mentioned above and there is no illegality in the same. Their conviction is thus maintained.

8. As regards sentence, keeping in mind the fact that the incident had taken place in the year 1994 thereby leading to passage of 25 long years since thereafter and that the applicants have already remained in jail for about three months, this Court thinks it just and proper and in the interest of justice to reduce the same to the period already undergone. Order accordingly.

9. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge