

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 543 of 2004

Babulal, aged 47 years, S/o Matwar Kewat, R/o Village – Timarlaga,
P.S. Sarangarh, District Raigarh, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh through the District Magistrate Raigarh, CG.

---- Respondent

For Applicant : Shri Roop Naik, Advocate

For Respondent : Shri Sanjeev Pandey, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

31 /10/2018

By this criminal revision has challenged the judgment dated 19/10/2004 passed by learned Second Additional Sessions Judge, Raigarh in Criminal Appeal No. 198/2003 affirming the judgment of conviction and order of sentence dated 25/11/2003 passed by Judicial Magistrate First Class, Sarangarh in Criminal Case No. 965/2002 whereby after holding the applicant guilty for the offence punishable under Section 34 (1-k) of the Excise Act convicted the applicant and sentence imprisonment for 6 months and fine of Rs. 5,000/- in default additional simple imprisonment for 3 months.

2. Shri Roop Naik, learned counsel for the applicant and Shri Sanjeev Pandey, Government Advocate for the State are heard.

3. Learned counsel for the applicant submits that present applicant was in custody since 19/10/2004 and has been released on 09/11/2004 in compliance of the order dated 09/11/2004 passed by this Court. Learned counsel for the State/respondent also admit the aforesaid facts. Learned counsel for the applicant prays that applicant has suffered minimum sentence provided under the law therefore, again sending in jail would not serve the purpose.

4. Learned counsel for the State/respondent opposed the criminal revision.

5. Judgment impugned and record of the Court below perused.

6. The conviction of the applicant is based on legal and clinching evidence. At the time of commission of offence the applicant was preparing country liquor and 500 M.L. Liquor was found in the possession. Considering the circumstances and nature of offence, this criminal revision is partly allowed. Conviction of the applicant is hereby maintained but sentence is altered from 6 months imprisonment to period already undergone for about 20 days and fine of Rs. 5,000/- in default additional simple imprisonment for 3 months. Applicant has already deposited the fine.

Sd/-

(Vimla Singh Kapoor)

Judge