

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 634 of 2004

Laxmi Chand, Aged about 35 years, S/o. Feku Lal, R/o. Sagarpara
Shiha, Police Station Pali, District Korba (C.G.)

---- Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police
Station City Kotwali, Bilaspur (C.G.)

---- Respondent

For Applicant : Mr. Y.C. Sharma, Advocate.
For Respondent : Ms. M.Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

12.12.2018

By the judgment under challenge passed on 27.09.2004 by
Additional Sessions Judge Bilaspur, in Criminal Appeal No. 107 of
2003, the findings recorded by the learned Judicial Magistrate
First Class, Bilaspur, have been modified.

2. Facts of the case, in short, are that the applicant was
working in the shop of Ramnik Jethwa proprietor of M/s. Universal
Traders. On 09.11.1995 the applicant had gone for recovery of
pending bills from the shopkeepers and the doctors also. On
11.11.1995 the accused/applicant informed the owner of the
shop Ramnik Jethwa about the theft of amount of Rs. 60,360, bill

books and other documents from his house. On the written complaint lodged by the owner of the shop against unknown persons. On suspicion the applicant was searched and found Rs. 60, 360/-, bill books and other documents from his house which situate at Sagarpara. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. Learned Magistrate having perused the material before it convicted the accused/applicant 408 IPC and sentenced him to undergo RI for one year with fine of Rs. 500/-. On appeal, the conviction has been maintained but the sentence has been reduced to period already undergone by him and the fine amount has been enhanced Rs. 3000/- to that of Rs. 500/-. Hence, this revision.

4. Counsel for the applicant submits that the Courts below have committed an error in convicting and sentencing the accused/applicant as mentioned above though the evidence led by the prosecution was lacking and therefore, the same may be set aside.

5. State counsel however, supports the findings recorded by the Court below.

6. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. From the evidence of complainant (PW-1), (PW-3) and (PW-5), it is clear that the applicant played fraud with the shop owner and kept Rs. 60,360/- in his possession and made false statement that the bills books and Rs. 60,360/- was stolen from his house which was later on recovered from the house situate at village Sagarpara. Even the witnesses in whose presence the amount was seized from the house of the applicant, remained firm in their version from bearing to end that the complainant had been subjected to cheating by the accused/applicant. In this view of the matter, this Court is of the opinion that the conviction recorded by both the Courts below as described above is strictly on the basis of evidence on record and there is nothing worth interference with the same. Conviction is thus maintained.

8. As regards sentence, the accused/applicant appears to have completed the entire sentence imposed upon him by the lower Appellate Court and therefore, this point too does not require any deliberation by this Court. Being so, the revision is hereby dismissed.

9. However, looking to the peculiarity of the fact involved, this Court feels it necessary to observe that the conviction of applicant shall not affect his carrier ahead – service or political as the case may be.

Sd/-
(Vimla Singh Kapoor)
JUDGE