

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 476 of 2004

Remanlal, S/o Tiju Ram Sahu, aged about 21 years, R/o Samhar Kona, Police Station Balod, Tehsil Balod, District Durg, CG.

---- Applicant

Versus

- State of Chhattisgarh through – The Police Station House Officer, Police Station Balod, District Durg, CG.

---- Respondent

For Applicant : Shri Rajendra Tripathi, Advocate

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

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

27 /11/2018

1. The applicant in this revision has challenged the judgment dated 06.09.2004 passed by Additional Sessions Judge Balod District Durg, in Criminal Appeal No. 479/2002 arising out of the judgment dated 17.12.2002 passed by JMFC Balod, in Criminal Case No. 765/2002 convicting the accused/applicant under Sections 457 and 380 IPC and sentencing him to undergo RI for two years with fine of Rs. 2500/- under each Section plus default stipulation.
2. Case of the prosecution, in brief is that on 11.01.2001 the complainant (PW-1) was sleeping in his house and when he woke up in the next morning, television of Sansui company with remote, was found missing. He lodged the report against the accused/applicant on suspicion. Subsequently, on his memorandum, the same was recovered from his possession. Thereafter the offence was registered against the accused/applicant under Sections 457 and 380 IPC and after investigation charge-sheet was filed.

3. On being satisfied with the averments of the parties and evidence on record the trial Court convicted and sentenced the accused/applicant as mentioned above. The findings recorded by the trial Court have been affirmed by the lower appellate Court by the Judgment impugned, and it is that which is under challenge in this revision.
4. Learned counsel for the accused/applicant submits that he is not pressing this revision on merits and would confine his argument to the sentence part of the judgment impugned therein. According to him, as the incident had taken place in the year 2001, and that he has already remained in jail for a period of 32 days, no useful purpose would be served in again sending him to jail, and therefore, the jail sentence imposed upon him may be reduced to the period already undergone.
5. State counsel however, supports the findings recorded by both the Courts below.
6. Heard counsel for the parties and perused the material on record.
7. Though counsel for the accused/applicant is not inclined to press the conviction of the accused/applicant on merits, this Court thinks it appropriate to refer to the evidence of the witnesses to ascertain his guilt or innocence and therefore, it proceeds to do so.
8. From the record it appears that on the date incident in the night hours the accused/applicant gained an entry in the house of PW-1 and took away a colour TV therefrom. Police had also seized the receipt of the said TV under Ex. P-2. (PW-5) Premlal has also supported the case of the prosecution stating that on the memorandum of the accused/applicant Ex. P-4 TV was seized under Ex. P-5. Same thing has been stated by PW-6 and PW-8 also. Thus, on going through the material on record the trial Court

was absolutely justified in convicting the accused/applicant under Sections 457 and 380 IPC. There is no illegality or infirmity in the same warranting interference by this Court. Conviction of the accused/applicant is thus maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place about 17 years back and the applicant has already remained in jail for a period of 32 days, this Court is of the opinion that it would be in the interest of justice to reduce the sentence to the period already undergone by him. Order accordingly.
10. Resultantly, the revision petition is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan