

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1282 of 2018

Arising Out of PS. Case No.-199 Year-2012 Thana- BARHARA District- Bhojpur

Chandan Singh @ Chandan Kumar Singh Son of Ajit Singh Resident of
Village-Udaybhanpur, P.S. Krishnagarh Barahara, Distt.-Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Singh

For the Respondent/s : Mr. Uday Pratap Singh

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 29-01-2019

Heard Parties.

This criminal revision application is directed against the order dated 04.08.2018 passed by 6th Additional District and Sessions Judge, Bhojpur, Ara in Cr. App. No.20 of 2017 dismissing the appeal filed by the petitioner and affirming the order dated 09.05.2017 passed by Chief Judicial Magistrate, Bhojpur, Ara in Trial No. 288 of 2017 (G.R. No. 2450 of 2012) arising out of Barahara (Krishnagarh) P.S. case No. 199 of 2012 convicting the petitioner under Section 392 of I.P.C. and sentencing to undergo rigorous imprisonment for 7 years and fine of rupees ten thousand and in default, to undergo further rigorous imprisonment for 6 months.

Prosecution story is based upon a written complaint



lodged by informant Jai Prakash Verma alleging therein that on 15.08.2012 at 5.30 p.m., after closing his shop as usual he kept the ornaments in Tiffin and kept it in his bag and proceeded on his motorcycle and was riding his motorcycle and co-villager Maksood was pillion rider and as they reached near the Basic School, he saw one person on a red colour motorcycle was sitting and another person was standing at a distance of ten steps who indicated petitioner to stop his motorcycle upon which petitioner stopped his motorcycle and thereafter he abused and said to give the bag otherwise he will shoot him and thereafter snatched the bag and fled away on the motorcycle and on such allegations, F.I.R. was instituted under Section 392 of I.P.C. and, thereafter, Section 412 I.P.C. was added and after completion of investigation, charge-sheet was submitted against six accused including petitioner under Sections 392, 411 read with 120B of I.P.C. on which, court took cognizance of the offence and charges were framed under Sections 392, 411, 120 B of I.P.C. to which accused including the petitioner pleaded not guilty and claimed to be tried.

In support of charge, prosecution examined 10 witnesses among which P.W. 1 Sugan Yadav was declared hostile. P.W. 2, Rajendra Sah, P.W. 3 Krishna Prasad and P.W. 4 Nirmal Kumar



are witnesses of seizure list who have proved their signature on seizure list. P.W. 5 is Munan Prasad and P.W. 6 is Jai Prakash Verma who is the informant and has proved the F.I.R. and has also proved the material exhibit ornaments which has been proved as material Ext. 10. P.W. 7 is Kumari Anchala who is the I.O. who has proved the formal F.I.R. as Ext. 2/1 and confessional statement of petitioner Chandan Singh as Ext. 3. Seizure list as Ext. 4. P.W. 8 Maksood Alam is a eye witness. P.W. 9 is Nishi Dayal who is Judicial Magistrate who had conducted the T.I parade of accused which has been marked as Ext. 5. P.W. 10 is Shivchand Prasad in whose presence T.I.P. of seized material were identified which has been marked as Ext. 6.

Defence has also examined 9 witnesses. D.W. 1 is Gopal Prasad who has proved two receipts from his jewellery shop as Ext. A and A/1 D.W. 2 is Sanjay Kumar who has proved one receipt of his shop as Ext. B. D.W. 3 is Rajesh Kumar who has proved receipt from his shop as Ext. C. D.W. 4 Shyam Babu Sah has proved one paper issued by him as Ext. D. D.W. 5 is Ranjit Kumar who has proved one receipt issued by him as Ext. E. D.W. 6 Appu Kumar has proved one Purja issued by him as Ext. F. D.W. 7 Mithilesh Singh has proved one receipt



issued by him as Ext. D. D.W. 8 Abhishek Soni has proved a receipt of his jewellery shop issued by him as Ext. H. D.W. 9 Subhash Chand Gupta has proved a Purja issued by him as Ext. I and signature on said Purja of his father as Ext. I /1.

P.W. 6 Jai Prakash Verma who is informant has stated in his deposition that on 15.08.2012, at 5.30 p.m. after closing his jewellery shop he was returning back along with Maksood Alam (P.W. 8) and in his Tiffin he has kept jewellery which was kept in the bag with other documents and cash and keys of shop was snatched by accused Chandan Singh at the point of pistol and thereafter he fled away. He has identified the accused and also the jewelleries which were looted. P.W. 8 Maksood Alam has supported the case of prosecution and in his deposition has stated that on the date of occurrence, he had gone to purchase vegetables where he met the informant and sat behind his motorcycle and witnessed the occurrence. P.W. 4 Nirmal Kumar is seizure list witness who has stated in his deposition that on 17.08.2012 at about 6 a.m., when he was returning after morning walk, he saw that I.O. has recovered jewellery from the house of Kamlesh Kumar and a seizure list was prepared upon which he put his signature. P.W. 3 Rajendra Sah and P.W. 5 Munan Prasad have supported the case of prosecution in their



deposition. P.W. 7 is the I.O. of this case. She has proved the place of occurrence and she has stated that accused - petitioner Chandan Singh confessed his crime and on basis of which the looted jewellery were recovered from Mithilesh and Kamlesh. She had conducted the T.I.P. of accused petitioner Chandan Singh and Tilak Paswan and also conducted the identification parade of seized jewellery. P.W. 9 is Rishi Dayal Judicial Magistrate who had conducted the test identification parade of accused Chandan Singh and Tilak Paswan in which informant had identified accused petitioner Chandan Singh only, however, he could not identify accused Tilak Paswan. P.W. 10 Shivchand Prasad has conducted the identification of seized jewelleryes.

After considering and appreciating the evidences on record adduced by the parties, the trial court found charges to be proved against petitioner under Section 392 of I.P.C. beyond all reasonable doubt and convicted him under Section 392 and sentenced rigorous imprisonment for 7 years and fine of rupees ten thousand and in default to undergo further rigorous imprisonment for six months. Aggrieved by the judgement of conviction and order of sentence passed by trial court, petitioner preferred appeal before Sessions Court Bhojpur, Ara giving rise to Cr. App. No. 20 of 2017 and after due consideration of



ground of appeal and hearing counsel for the appellant, the appellate court dismissed the appeal of petitioner by its order dated 04.08.2018 against which present criminal revision has been filed.

After hearing the parties and going through judgements and orders passed by both the courts, this Court does not find any error, illegality or irregularity in the orders passed by the trial court affirmed by the appellate court and accordingly this criminal revision petition is dismissed. It has been submitted that petitioner has been in custody for more than five years as such the sentence is modified to the extent of period already undergone.

In the result, the judgements and orders passed by both the courts is affirmed, however, sentence is modified to the period already undergone. Petitioner may be released forthwith if not wanted in any other case.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.02.2019
Transmission Date	09.02.2019

