

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No.219 of 2004

Order reserved on 25.02.2019

Order pronounced on 23.10.2019

Maheshram, S/o Sukhdev, aged about 30 years, Caste Kalar, R/o Village Jodega, Police Station Mardapal, Tahsil Kondagaon, District Bastar (CG)

---- Applicant

Versus

State of Chhattisgarh, through the Police Station Kondagaon, Tehsil Kondagaon, District Bastar (CG)

----Respondent

For Applicant : Shri Vishnu Koshta, Advocate

For Respondent : Shri Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Order

The accusation made against the accused/applicant is that on 16.08.1999 he was caught transporting leopard hide on a motorcycle which was seized under Ex.P-1 in presence of two independent witnesses PW-1 and PW-3 and no authorization letter or licence or permit for doing so was produced by him. After completion of investigation charge-sheet was filed against the accused/applicant under Section 49 read with 51 (1) of the Wild Life Protection Act, 1972.

2. Learned trial Court, on the basis of martial available on record and evidence adduced by the prosecution held the accused/applicant guilty for the offence described above and imposed the sentence of RI for one year with fine of Rs.5000/-, plus default stipulation vide judgment dated 12.01.2004 passed in Criminal Case No.555/1999. In appeal also the view of the trial Court was affirmed as a whole vide judgment impugned dated 01.04.2004. Hence this revision.

3. Counsel for the accused/applicant opposes the conviction and sentence imposed on the applicant as described above being not based

on proper analysis of the evidence on record. State counsel however holds the judgment impugned to be in accordance with the evidence of the witnesses examined by the prosecution.

4. Record reveals that the seizure of leopard hide was made from the accused/applicant under Ex.P-1 in presence of two independent witnesses being PW-1 and PW-3. PW-1 though expressed his ignorance about seizure yet he has admitted his signature on the seizure memo (Ex.P-1) which shows his presence on the spot at the relevant time. PW-3 another independent witness has categorically stated that the accused/applicant was nabbed by the Police transporting the lion's hide on his motorcycle and that he put his thumb impression on the seizure memo after being asked by the Police. PW-2 - Assistant Sub Inspector who made the seizure from the applicant under Ex.P-1 in the presence of PW-1 and PW-3 has also supported the case of the prosecution stating that the accused/appellant failed to produce any licence or permit for such transportation. PW-4 has also stated that the accused/appellant was transporting lion's hide on his bicycle. Since PW-3 and PW-4 are not the experts, their statements that article seized was lion's hide, does not make any difference to the case of the prosecution. PW-5 and PW-6 describing the configuration of the hide so seized have also supported the case of the prosecution. Most of the witnesses however have been monotonous in stating that the accused/applicant could not produce any licence or permit authorizing him to make such transportation of hide. Thus both the Courts below appear to have been fully justified in convicting the accused/applicant under the Wild Life Protection Act as detailed above, and being so, his conviction is therefore, maintained.

5. As regards sentence, keeping in mind the incident being quite old and the detention period of the accused/applicant which comes to about three weeks in this case, this Court in the interest of justice feels it proper

to reduce the sentence imposed on him to the period already undergone.
Order accordingly.

6. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi|Ajay