

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 20 of 2008

Shiv Kumar, S/o Ramadhin Yadav, aged about 25 years, R/o village
Basantpur, P.S. Janjgir, District Janjgir, Champa (CG)

---- Applicant

Versus

The State of Chhattisgarh through District Magistrate, District
Janjgir, Champa (C.G.)

--- Respondent

For Applicant : Shri Gurudev I. Sharan, Advocate

For Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

15/05/2019

The accused/applicant herein along-with co-accused (acquitted in appeal) are alleged to have stolen the Hero Honda Motor Cycle of the son of the complainant (PW-1) from Champa. After the report Ex.P-1 was lodged by complainant Laxmidas (PW-1), said motorcycle was seized on his memorandum (Ex.P-3) from the house of one Umesh under Ex.P-6 and after completion of investigation charge-sheet was filed against the accused/applicant and two others.

2. Learned trial Court vide judgment dated 24.09.2007 convicted the accused/applicant and his associates two in number, under Section 379 IPC and sentenced each of them to undergo RI for one year with fine of Rs.500/- plus default stipulation. However, learned lower Appellate Court vide judgment impugned dated 02.01.2008 acquitted the other two of the charge levelled against them but found the accused/applicant guilty as was held by the trial Court.

3. Having heard counsel for the accused/applicant and gone through the material on record in particular the evidence of PW-1 who lodged the report (Ex.P-1); that of the PW-2 - Deepak Das who had intimated to PW-1 about theft of the motorcycle; that of PW-4 - Mahesh Shrivastava and also

keeping in mind the fact that the motorcycle which was stolen from Champa was seized on the memorandum of the accused/applicant herein who after taking away the motorcycle had changed the number plate of the same, the lower Appellate Court does not appear to have committed any error in holding the accused/applicant guilty under Section 379 IPC. His conviction, therefore, is hereby maintained.

4. However keeping in mind the fact that sufficient long time has elapsed from the date of incident i.e. 06.12.2004 and that by now the accused/applicant who has already remained in jail for about a month, must have fallen in the heap of responsibilities, this Court is not inclined to again send him behind the bars and thereby unsettle his already settled family life. Being so, the sentence imposed on the accused/applicant is reduced to the period already undergone.

5. Revision thus partly allowed.

Sd/-
(Vimla Singh Kapoor)
Judge

Jyotishi/Ajay