

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 175 of 2010**

1. Anand Tirki, S/o Shri Tivartitues Tirki, aged about 30 years, R/o Khajuri, Police Station- Balrampur, District- Balrampur (C.G.)
2. Dinesh Ram Korwa, S/o Ram Kiran, aged about 22 years, R/o Panchawal, District- Balrampur (C.G.)

---- Applicants

Versus

- State of Chhattisgarh, Through P.S. Dharmjaigarh.

---- Respondent

For Applicants : Ms. Sonia Kuldeep from Legal Aid

For Respondent/State : Mr. Wasim Miyan, P.L.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

27.09.2019

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 18/01/2010 passed by Third Additional Sessions Judge, (FTC) Raigarh, Chhattisgarh in Cr. Appeal No. 44/2009 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Dharmjaigarh, Distt.- Raigarh vide its judgment dated 08/10/2009 in Criminal Case No. 71/2008 for the offence under Section 384 of IPC and sentenced them to undergo R.I. for three years each with default stipulation.

2. Brief facts of the case are that complainant Munna Ram lodged an FIR alleging therein that two persons with two guns were sitting under Mohar Tree and they collected Rs. 680/- from the complainant and other villagers in the name of naxali gang. On this report, an offence was registered against applicants. After completion of investigation, charge-sheet has been filed and charge was framed under Section 384 of IPC against the present applicants by the trial

Court.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 11 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide judgment of conviction and order of sentence dated 18.10.2009, learned Judicial Magistrate has convicted and sentenced the applicants for the offence under Section 384 of IPC and sentenced them to under go R.I. for 3 years each, with default stipulation. This order was appealed by the applicants and in the appeal, learned Appellate Court and affirmed the conviction and sentence of the applicants under Section 384 of IPC. Hence, the present revision.

5. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicants submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2008, and thereby more than 12 years have rolled by since then. Applicant Nos. 1 & 2 are aged about 30 and 32 years respectively. The applicants have already remained in jail for more than 1 year, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.

7. Learned counsel for the State has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses Munna Ram (PW-1), Phaguram (PW-2), Bodhram (PW-3), Dilip (PW-4), Sukhan Rokha (PW-5), Karamsay Korba (PW-6),

Basantram (PW-7), Bholaram (PW-8), Enwar (PW-9), Dasuram (PW-10) and F. J. Ligga (PW-11) established the involvement of the accused/applicants in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by appellate Court below as regards conviction of the applicants under Sections 384 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2008, and further that the applicants had already remained in jail for more than 1 year, therefore, their sentence is liable to be reduced to the period already undergone by them.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicants, they are sentenced to the period already undergone by them. The applicants are reported to be on bail. Their bail bonds shall stand discharged.

Sd/-
(Rajani Dubey)
JUDGE