

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 77 of 2005**

Omkar Namdeo S/o Narayan Namdeo, aged 18 years, R/o Kundra Para, Gudhiyari, P.S. Gudhiyari, Tehsil & District Raipur, C.G.

---- **Applicant**

Versus

The State of Chhattisgarh through Police Station Gudhiyari, District Raipur, CG. ---

Respondent

For Applicants	: Shri Aditya Chopra, Advocate
For State/Respondent	: Shri Amit Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

25/02/2019

The judgment under challenge in this revision petition is dated 30.12.2004 passed by Sessions Judge, Raipur in Criminal Appeal No.291/2004 affirming the judgment dated 19.10.2004 passed by JMFC, Raipur in Criminal Case No.390/2002 convicting the accused-applicant under Section 379 IPC and sentencing him to undergo RI for 6 months with fine of Rs.1,000/- plus default stipulation.

2. The facts of the case in brief are that on 16.07.2002 when complainant (PW-1) had gone to a temple by keeping his bicycle outside, it went missing. The report under Section 379 IPC was lodged against an unknown person. Later on, the said bicycle was seized from the possession of the accused/applicant. After completion of investigation, *challan* was filed against the accused/applicant under the said section which culminated in framing of charge and slapping of conviction as described above.

3. Learned trial Court, after taking into consideration the material on record, convicted and sentenced the accused/applicant as detailed above

which on appeal, has also been affirmed vide judgment impugned which is the subject matter of this revision.

4. Counsel for the applicant, at the very outset, submits that he would not lay much emphasis on the conviction of the accused/applicant and would confine himself within the sentence part of the judgment impugned only. He submits that as the applicant has already been set free after completing the jail sentence imposed on him, nothing substantial remains to be decided in this revision. State counsel, however, supports the judgment impugned. He however, admits that the accused/applicant has completed the sentence and has been released from jail as is evident from the report of Jail Superintendent, Central Jail, Raipur dated 13.02.2019.

5. Having seen the evidence of Govind Dewangan (PW-1) who has even produced the receipt of the bicycle it is evident that the bicycle seized from the accused/applicant was in the rightful ownership of PW-1. Even Top Singh Dewangan (PW-3) - the eye witness to the incident has also supported the case of the prosecution stating that he saw the accused/applicant taking away the bicycle belonging to the accused/applicant and on hue and cry being raised, the Police came to the spot and took the accused/applicant into custody.

6. Thus, the prosecution has proved its case beyond reasonable doubt that it is the accused/applicant who was involved in the theft of the bicycle which was eventually seized from his possession. So also, both the Courts below have been fully justified in holding the accused/applicant guilty under Section 379 IPC and imposing the sentence shown above.

7. In aforesaid view of the matter, in particular keeping in mind the report of the Jail Superintendent, Central Jail, Raipur dated 13.02.2019 to the effect that the accused/applicant after getting the benefit of remission has been released from Jail on 04.08.2010, this Court does not wish to

observe anything except recording dismissal of the revision petition. Order accordingly.

8. Revision thus dismissed.

Sd/-
(Vimla Singh Kapoor)
Judge

jjyotishi/ajay