

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 436 of 2009

Angad Ram Sahu, S/o Bishal Sahu, Caste – Sahu, aged about 50 years, R/o Village Bhujgahan, Police Station Arjuni, Dhamtari, Tahsil & District Dhamtari (CG) --- **Applicant**

Versus

State Of Chhattisgarh through the District Magistrate, Dhamtari, District Dhamtari (CG) ---- **Respondent**

For Applicant	: Shri Manoj Bhardwaj, Advocate on behalf of Shri Shivendra Pandya, Advocate
For Respondent	: Shri Himanshu Sharma, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

10/04/2019

On the basis of FIR (Ex.P-3) lodged by Indresh (PW-2) an offence under Section 380 IPC was registered against the accused/applicant. In the said report it is alleged that out of the 3 Quintals of iron rods meant for construction of school building, 1½ Quintals were stolen by the accused/applicant. Further on the memorandum of the accused/applicant (Ex.P-1) 78 Kilogram of iron rods were seized under Ex.P-2 from the enclosure of one Madhav Das Tandon which was kept under the cover of haystack. After completion of investigation *challan* was filed against the accused/applicant under the said section.

2. Learned Judicial Magistrate First Class, Dhamtari on the basis of material available on record, convicted the accused/applicant under Section 380 IPC and sentenced him to undergo RI for 2 years with payment of fine of Rs.500/- plus default stipulation. On appeal, the conviction slapped by learned Magistrate was kept intact but the sentence of RI for 2 years was reduced to that of 6 months. Hence this revision.

3. Counsel for the accused/applicant submits that there are material contradictions and omissions in the evidence of the witnesses but ignoring

the same learned Court below has convicted and sentenced the accused/applicant as mentioned above, which is not proper. Even the memorandum and seizure, according to the counsel for the applicant, are not in accordance with law and, therefore, also the judgment impugned is liable to be set aside. State counsel however supports the judgment impugned.

4. From the evidence of Baisakhu (PW-1) it is evident that he has seen the accused/applicant taking iron rods on his bicycle and subsequently on his memorandum Ex.P-1, the iron rods were seized under Ex.P-2 from the campus of Madhav Tandon adjacent to the school building. This fact has been supported by PW-2 stating that he was informed by PW-1 that the accused/applicant was seen by him taking away the iron rods on his bicycle, which ultimately were seized under Ex.P-2 from the campus of Madhav Tandon where it was kept under the cover of haystack. No evidence has been adduced by the defence as to the ownership of the accused/applicant over the iron rods which were seized under Ex.P-2 as no bill etc. has been produced by him. Over all evidence thus clearly points at the guilt of the accused/applicant and being so the Court below has not committed any error in convicting the accused/applicant under Section 380 IPC. Conviction is thus maintained.

5. As regards sentence, keeping in mind the fact that the incident had taken place in the year 2007 and thereby almost 12 years have rolled by since then, and further keeping in mind the fact that the accused/applicant has already remained behind the bars for about two months, this Court thinks it in the interest of justice to reduce the sentence imposed on him to the period already undergone. Order accordingly.

6. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge