

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 350 of 2008

Leela Shankar, S/o Ram Sewak, aged about 22 years, R/o Village Bhawanipur, Police Station Palari, District Raipur (CG)

---- Applicant

Versus

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

--- Respondent

For Applicant : Shri Vivek Tripathi, Advocate on behalf of Shri Awadh Tripathi, Advocate.

For Respondent : Shri Vikram Dixit, PL.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

31/01/2019

FIR (Ex. P-1) lodged by Rajendra Luniya (PW-1) goes to show that on 24.07.2005 he had parked his motorcycle bearing Registration No. CG-06/B-2156 in front of his house which after some time was found missing. On search being made, it was found in possession of the accused/applicant near Chandak Petrol Pump, Mahasamund who thereafter was brought to Police Station with the same. The RC Book of the motorcycle was seized from PW-1 under Ex.P-2 and the seizure of motorcycle was effected under Ex.P-1 from the accused/applicant.

2. Having taken note of the evidence on record, learned trial Court found the accused/applicant guilty under Section 379 IPC vide judgment dated 11.08.2006 passed in Criminal Case No.891/2005 and imposed the sentence of RI for one year with fine of Rs.500/- plus default stipulation. Learned lower Appellate Court also approved the judgment of the trial Court by way of judgment under challenge in this revision petition dated 07.05.2008 passed in Criminal Appeal No.67/2006.

3. From the evidence of PW-1 and PW-2 it is apparent that the motorcycle in question which was stolen by the accused/applicant was

found in his possession near the Chandak Petrol Pump, Mahasamund. The ownership of the said motorcycle is clear from the RC Book seized under Ex.P-2 duly supported by PW-5 in which name of PW-1 is mentioned as its owner. Similarly the seizure of motorcycle under Ex.P-4 has also been supported by PW-1, PW-2 and PW-5 and the accused/applicant was not in a position to refute the case of the prosecution by adducing any evidence in this regard.

4. Both the Courts below thus have been fully justified in convicting the accused/applicant under Section 379 IPC which is hereby maintained. However looking to the incident being of the year 2005 and the detention of the accused/applicant for 23 days, this Court thinks it just and proper and in the interest of justice to reduce the sentence to the period already undergone so that after such a sufficient long time his family life is not unsettled. Order accordingly.

5. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay