

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 442 of 2004

1. Chaituram @ Chertu Ram S/o Teju Ram Rajwar, age 40 years.
 2. Kudar Ram S/o Manbodh Rajwar, age 25 years.
- Both R/o Village Sirkotga, P.S. Lakhanpur, District Surguja, CG.

---- Applicants

Versus

- State of Chhattisgarh through P.S.Lakhanpur, District, Surguja, CG.

---- Respondent

For Applicant : Ms. Shipra Biswas, Advocate

For State/Respondent : Smt. M. Asha, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

21/01/2019

Facts of the case, in brief, are that on 08.08.1989 when complainant (PW-12) was vending the cloths by roaming from one place to another, at about 1 pm the accused/applicants looted the bundle of cloths from him and also caused injuries to him and his brother (PW-1) who was also doing the same work of cloth vending along with his brother (PW-12). On matter being reported by PW-12, FIR Ex. P-8 was registered against the accused/applicants and both the victims were medically examined vide reports Ex. P-1 and Ex. P-2. After investigation, *challan* was laid under that section and the applicants were prosecuted accordingly.

2. Trial Court, on appreciation of the evidence on record held the accused/applicants guilty u/s 394 IPC and sentenced each of them to undergo RI for three years with fine of Rs. 100/- each vide judgment dated 28.04.2004 passed in Criminal Case No. 292/2004. Lower

Appellate Court also affirmed the findings of the trial Court vide judgment impugned dated 26.08.2004 passed in Criminal Appeal No. 108/2004.

3. At the very outset counsel for the applicants submit that he is not pressing the conviction of the applicants but his sole request would be for reduction of the sentence to the period already undergone considering the fact that the incident is of 1989 and the applicants have already remained in jail for (14 days and 24 days respectively). State counsel however, supports the judgment impugned.

4. PW-12 who lodged the FIR has categorically stated that on the date of incident when he was in village Sirkotanga for selling the cloths, the accused/applicants took away the bundle from them and while doing so, they also caused injuries to him as also his brother (PW-1) with the help of club and hands and fists. He has also stated that the articles taken away were duly identified by him vide Ex. P-12. PW-1 – another victim has also corroborated the evidence of PW-12. PW-3 – the seizure witness has also supported the case of the prosecution stating that in his presence the cloths were seized from the accused/applicants under Ex. P-5 and Ex. P-6. The doctor (PW-2) who medically examined PW-12 and PW-1 and gave his reports Ex. P-1 and Ex. P-2 has also supported the case of the prosecution stating that he noticed number of injuries such as swelling, abrasion etc., on their body. All this clearly shows that the accused/applicants have committed the offence alleged against them and therefore, their conviction u/s 394 IPC appears to be just and proper and calls for no interference in this revision. Their conviction is thus maintained.

5. As regards sentence, considering the detention period of the accused/applicants (14 days and 24 days respectively) and that the incident is of more than 30 years old, at this stage it would not be proper to again send them to jail, and therefore it is hereby reduced to the period already undergone.

6. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan