

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 373 of 2004

Order reserved on 08.01.2019

Order delivered on 28.01.2019

Shiv Lal S/o. Maniyar Aged about 60 years, Cast Uraon, R/o.
Village Bakalo, P.S. Darima District Surguja (C.G.)

---- **Applicant**

Versus

State of Chhattisgarh,

---- **Respondent**

For Applicant : Ms. Rashmi Sen, Advocate.
For Respondent : Mrs. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

By this revision petition the applicant has assailed the judgment dated 13.07.2004 passed by Sessions Judge Surguja in Criminal Appeal No. 124/2002 modifying the judgment dated 30.10.2002 passed by Judicial Magistrate First Class Ambikapur in Criminal Case No. 268/1998 convicting the accused/applicant under Sections 411 IPC and sentencing him to undergo R.I. for 6 months.

2. Facts of the case, in short, are that on 9.2.1998 report was made to the effect that the ox belonging to Ramprasad (PW-1) was missing. Acting upon that report, absconding accused namely Basant Das was taken into custody and on his

disclosure statement it was recovered from the possession of the accused/applicant under (Ex.P-4). After completion of investigation challan was filed against the accused/applicant under Section 411 IPC.

3. Learned Magistrate having perused the material before it convicted the accused/applicant under Section 411 IPC and sentenced him to undergo RI for 1 year. However, in appeal the conviction has been maintained but the sentence has been reduced to RI for six months. Hence, this revision.

4. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. On perusal of the evidence of the witnesses, it is apparent the accused/applicant could not lead any satisfactory evidence as to the rightful ownership of the ox and if the overall evidence is seen as it is, it can be inferred that the accused/applicant bought the said ox knowing it to be the stolen property. The Court below has been fully justified in passing the order

impugned. Conviction of the accused/applicant is thus maintained.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 1998, that the accused/applicant has already remained in jail for a period of 41 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

9. With the above, the revision stands allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Jyotishi/Santosh