

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on 14.11.2018

Order pronounced on 07.01.2019

CRR No. 486 of 2003

Pradeep Tiwari son of Bisahu Lal, aged about 35 years,
occupation - Dukandari (Business) Resident of village
Putpura, Outpost Maro, Police Station Nandghat, District
Durg, CG

--- Applicant

Versus

State of Chhattisgarh through outpost Maro, Police Station
Nandghat

--- Respondent

For Applicant	-	Shri Bharat Rajput, Adv.
For Respondent	-	Smt. M. Asha, PL

Hon'ble Smt. Vimla Singh Kapoor, J.

CAV Order

By this revision petition the applicant has assailed the judgment dated 23.09.2003 passed by Additional Sessions Judge, Bemetra in Criminal Appeal No. 64/2000 modifying the judgment dated 11.02.2000 passed by Judicial Magistrate First Class, Bemetra in Criminal Case No. 493/1992.

2. Facts of the case in short are that the applicant herein in connivance with co-accused Lakhanlal dishonestly misappropriated an amount of Rs. 1000/- sent through money order No. 1786 by Ramnath to be paid to his brother Ramkhilawan at village Putpura. When on inquiry by Ramnath, the applicant herein who was working as the postman in Putpura post office, could not give satisfactory answer as to how in place of Rs. 2000/- only 1000/- was paid to Ramkhilawan, a written report Ex. P-18 was lodged against the accused/applicant herein based on which FIR Ex. P-51 was

recorded. The applicant is also alleged to have forged the thumb impression of Ramkhilawan to show that the amount pertaining to money order No. 1786 has also been received by him.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused under Sections 409, 467/34 and 468/34 and sentenced him to RI for three years under Sections 409 and 467/34 and RI for one year u/s 468/34 IPC. On appeal, the conviction has been maintained but the sentence under all the sections has been reduced to RI for six months. It is that judgment of the lower appellate Court which is under challenge in this revision.

4. Counsel for the applicant submits that his main prayer is to the sentence part of the judgment impugned and not that of conviction. He submits that looking to the fact that the incident had taken place 26 years back and the applicant has deposited the amount of Rs. 1000/- during the preliminary investigation itself and further that the applicant has already remained in jail for about 10 days, it would be in the interest of justice if the sentence imposed on him is reduced to the period already undergone.

5. State counsel however supports the judgment impugned.

6. Having gone through the material on record and the evidence of the witnesses including that of Ramnath – the sender, and Ramkhilawan whom the money was to be paid and also the document of Ex.P-8 showing the forgery of thumb impression of Ramkhilawan, this Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Sections 409, 467/34 and 468/34 IPC and being so they are hereby maintained. However, looking to the incident being quite old, that the applicant has deposited the amount in question way back in the beginning itself and that he has already remained in jail for about ten

days, this Court thinks it proper and in the interest of justice if the sentence so imposed is reduced to the period already undergone. Order accordingly.

7. Revision is thus partly allowed as indicated above.

Sd/-

(Vimla Singh Kapoor)
Judge

Jyotishi