

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 443 of 2004

Judgment reserved on 11.12.2018

Judgement delivered on 25.02.2019

Chaituram Sahu S/o. Jugau Sahu, Aged about 30 years, R/o. Parsada, P.S. Chakarbhatha, Tahsil Takhatpur, District Bilaspur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Collector, Bilaspur District Bilaspur (C.G.)

---- Respondent

For Applicant : Mr. M.K. Bhaduri, Advocate

For Respondent : Mr. Gary Mukhopadhyay, Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment.

On 03.09.2001 FIR (Ex.P-5) was lodged in Police Station Chhakarbhata, by D. Mukherjee (PW-5), Junior Engineer, Chhattisgarh State Electricity Board, Sakri, alleging that 840 meters aluminium wire worth of Rs. 6600/- was theft by unknown person. On suspicion, the applicant was arrested and on the memorandum statement of the applicant stolen aluminium wire was seized from him. After completion of investigation, charge sheet was filed against the applicant under Section 379 IPC and charge sheet was framed accordingly.

2. By the judgment dated 07.02.2003 learned trial Court convicted the accused/applicant under Section 379 IPC and

imposed the sentence of RI for six months. In appeal, the conviction recorded by the trial Court has been affirmed. Hence, this revision.

3. Counsel for the applicant submits that the Courts below have committed an error in convicting and sentencing the accused/applicant as mentioned above though the evidence led by the prosecution was lacking and therefore, the same may be set aside. He further submits that the seizure witnesses have not fully supported the case of the prosecution case, hence benefit of doubt should have given in favour of the accused.

4. State counsel, however, supports the judgment impugned.

5. Having heard counsel for the parties and perused the material available on record including the evidence of PW-3, who proved the FIR (Ex.P-5) and his written application vide ExP-3. From the evidence of PW-5, it is clear that the wire so seized did not belong to the department of Telephone Department. His evidence is also makes it clear that the official of the CSEB have clearly owned the said wire to be their own. Thus, the statement of all these witnesses are quite consistent and therefore there is no reason to disbelieve or discard the same. In this view of the matter, both the Courts below appear to have been fully justified in holding the accused/applicant guilty under Section 379 IPC and therefore, no infirmity or illegality is visible in the judgment under assail.

6. However, looking to the fact that the incident had taken place in the year 2001 and thereby more than 18 years have

passed by, and further that the accused/applicant has already remained inside for more than 15 days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone, so that his already settled family life is not landed to crises. Order accordingly.

7. Revision allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh