

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 184 of 2004

Manoj @ Santosh Sahu S/o. Deluram Aged 25 years, resident of
Chantidhi, P.S. Sarkanda, District Bilaspur (C.G.)

---- Applicant

Versus

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

---- Respondent

For Applicant : Mr. N.K. Malaviya, Advocate.

For Respondent : Mr. Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 13.02.2019

By this revision petition the applicant has assailed the judgment dated 17.03.2004 passed by Additional Sessions Judge Bilaspur in Criminal Appeal No. 42/2001 affirming the judgment dated 08.02.2001 passed by JMFC Bilaspur in Criminal Case No. 163/1997 convicting the accused/applicant under Section 379 IPC and sentencing him to undergo SI for 1 year and 3 months.

2. Facts of the case in short are that on 02.12.1996 at about 8.00 PM complainant Chandrakumar Soni (PW-3) had parked his Auto rickshaw in front of Kamal Prashad Patel's house which on the next morning, was found missing and subsequently it was seized from the possession of the applicant. Thereafter the report was lodged and after completion of investigation, challan was filed against the accused/applicant under Section 379 IPC.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 379 IPC and imposed the sentence of SI for one year and three months. The finding of conviction recorded by the trial Court has subsequently been confirmed by the lower Appellate Court by the judgment impugned hence this revision.

4. 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.

5. State counsel however supports the judgment under assail and submits that the Courts below have recorded the well reasoned finding while writing the judgment impugned and therefore, no interference there-with is needed by this Court.

6. Having heard counsel for the parties and perused the evidence of the witnesses - in particular PW-3, PW-5 and considering the fact that the auto rickshaw which was stolen was seized from the possession of the applicant under Ex. P-3 and that the accused/applicant could not produce the receipt thereof showing his ownership of the same, this Court does not see any

illegality or infirmity in the judgment impugned. Accordingly, the findings so recorded are hereby maintained.

7. As regards sentence, keeping in view the fact that the incident had taken place in the year 1996, that the accused/applicant has already remained in jail for a period of about 84 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.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh