NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 80 of 2008

Raju Masih Son of Santosh Masih, aged about 19 years, Resident of Bhatgaon, Police Station and District Dhamtari, CG.

---- Applicant

Versus

- State of Chhattisgarh through the Police Station Dhamtari, District Dhamtari, CG.

---- Respondent

For Applicant : Shri Amit Kumar Sahu, Advocate

For State/Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

11/02/2019

By the judgment impugned dated 08.01.2008 in Criminal Appeal No. 23/2007, the findings recorded by the learned Magistrate vide judgment dated 31.10.2007 convicting the accused/applicant u/s 379 IPC and sentencing him to undergo RI for six months with fine of Rs. 500/- have been confirmed.

2. Facts of the case, in brief, are that on 24.09.2004 when Santosh Thakur (PW-8) was taking bath in the Gangrail dam by putting his full-pant carrying an amount of Rs. 5,000/- on the bank**,** it went missing. After sometime, Yugal Thakur (PW-3) the lodger of the report Ex. P-2 informed PW-8 about the thief being nabbed**.** After investigation, the *Challan* was filed, trial Court began trial resulting in conviction of the accused/applicant vide judgment dated 31.10.2007. The judgment passed by learned Magistrate was confirmed in appeal and it is the same judgment passed by Lower Appellate Court which is under challenge in this revision.

3. Counsel for the applicant does not press conviction of the accused/applicant and is confining his argument to the sentence part of the judgment impugned looking to the fact that the incident had taken place in the year 2007 and the accused/applicant has already remained in jail for about 01 month and 15 days. State counsel however, supports the findings recorded by both the Courts below.

4. The record shows that on the basis of memorandum of accused/applicant Ex. P-3, seizure of some cash, black colour purse and full-pant was made under Ex. P-4. Evidence of PW-2 and PW-8 also supports the case of the prosecution leading to involvement of the accused/applicant in the theft of full-pant and a purse containing Rs. 5,000/-.

5. Both the courts below have thus rightly held the accused/applicant guilty u/s 379 IPC after appreciating the evidence of the witnesses. Conviction of the accused/applicant therefore, does not seem to be erroneous in any way whatsoever. It is hereby maintained.

6. As regards sentence, keeping in view the fact that the incident had taken place about 14 years back, that the applicant has already remained in jail for a period of about 01 months and 15 days, and that by now he must be in the heap of family responsibilities, this Court is of the opinion that it would be in the interest of justice to reduce the sentence imposed on him to the period already undergone. Order accordingly.

7. Resultantly, the revision petition is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan