

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 615 of 2009

1. Amol son of Mohan aged about 22 years, Caste Bhaina
2. Bachchan Singh son of Tulsi, aged 24 years, Caste Gond
3. Dhannu Singh son of Thakur Prasad, aged 26 years

**All R/o village Anjani, Thana Gourela, District Bilaspur,
CG**

--- Applicants

Versus

1. State of Chhattisgarh through Police Station Gourela, District
Magistrate, Bilaspur, CG

--- Respondent

For Applicants	-	Shri Deepak Jain, Advocate.
For Respondent/State	-	Shri Raghvendra Verma, GA

Order on Board by Hon'ble (Smt.) Vimla Singh Kapoor, J.

09.04.2019:

Written report Ex. P-10 made by Hariram – the in-charge teacher of Anjani Primary School (PW-2) demonstrates that in the night of 28.7.2009 ceiling fans, tube lights, sewing machine, switch board etc. were stolen by some unknown person. On the basis of said written report, Dehati Nalisi (Ex.P-11) and FIR (Ex.P-12) were also recorded. Thereafter, he was called by the police to the house of Nand Kishore (PW-3) where the accused/applicants were also present. In the house of Nand Kishore, Hariram (PW-2) received the stolen articles except switch board and tube light which accused Bachan Singh had allegedly handed over to his relatives.

Subsequently, on the memorandums of the accused/applicants (Ex. P-1 to Ex. P-3) the stolen articles were seized from their possession under Ex. P-4 to Ex. P-6 in presence of the witnesses. After completion of investigation, charge-sheet was filed against them under Sections 457 and 380 IPC followed by framing of charge and commencement of trial.

2. In the trial the accused/applicants were held guilty under Sections 457 and 380 IPC and sentenced to undergo RI for one year with fine of Rs. 100/- on each count, plus default stipulations vide judgment dated 3.11.2009 passed in Criminal Case No. 511/2009. In appeal also, the findings of the trial Court came to be affirmed vide judgment impugned dated 12.11.2009 passed in Criminal Appeal No. 30/2009.

3. Counsel for the applicants submits that both the Courts below have not correctly adhered to the evidence of the witnesses while holding the accused/applicants guilty and therefore, the judgment impugned is liable to be set aside. He submits that the material contradictions and omissions in the statements of the witnesses have also been ignored while passing the judgment impugned. State counsel however supports the judgment impugned and submits that the Courts below have rightly convicted and sentenced the accused/applicants as referred to above and no illegality or irregularity is visible in the findings so recorded.

4. Evidence of PW-2 who made the written report goes to show that in the house of PW-3 he had received the stolen articles except switch board and tube light which accused Bachan Singh

had allegedly handed over to his relatives. Furthermore, on the memorandum of the accused/applicants (Ex.P-1 to Ex. P-3) seizure of stolen articles was also made under Ex. P-4 to Ex. P-6. Seizure witness (PW-3) has also fully supported the case of the prosecution. Evidence of PW-4 also shows that on the basis of suspicion, the accused/applicants were apprehended where they admitted commission of theft, took out the stolen articles and handed over the same in the presence of the Police. Thus, there is ample evidence to show that the accused/applicants had entered the Anjani Girls school in the night hours and stolen the switch boards, tube lights, ceiling fans, sewing machine etc. Courts below, therefore, were fully justified in holding them guilty for the offences mentioned above. Conviction of the accused/applicants under Sections 457 and 380 IPC is accordingly maintained.

5. However, looking to the fact that the incident had taken place in the year 2009 - that way about ten years have rolled by since then, and further that the accused/applicants had been inside for more than four months and thus suffered enough for their act, no useful purpose is going to be served in further sending them to jail. Accordingly, their sentence is reduced to the period already undergone which would meet the ends of justice. Order accordingly.

6. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)
Judge