

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 8 of 2010

Rajendra Mahara S/o. Dhanau Mahara, Aged about 45 years, R/o.
Village Jhiriyatola, Police Station Marwahi, District Bilaspur (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Surajpur,
District Surguja (C.G.)

---- Respondent

For Applicant : Mr. Aman Kesharwani, Advocate.

For Respondent No.1 : Mr. Raghvendra Verma, P L

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 24.06.2019

On 25-11-2009 FIR Ex.P-1 was lodged in Police Station Marwahi, wherein it is alleged by the complainant that when he was sleeping in his house after closing his shop, at about 3.30 AM, he woke up on sensing the entry of someone in his shop, and on opening it door, the applicant was found with grocery items. The applicant was nabbed by the complainant, and on hearing his voice, other villagers also came there where the applicant was handed over to Police. After completion of investigation, charge sheet was filed against the applicant under Section 457 and 380 IPC and charge sheet was framed accordingly.

2. By the judgment dated 17.08.2009 learned trial Court convicted the accused/applicant under Sections 457 and 380 IPC and sentenced him to undergo RI for 1 year and to pay fine of Rs. 200 u/s 457 IPC and RI for 1 year and to pay fine of Rs. 200 u/s 380 IPC with default stipulations. The lower appellate Court,

however, set aside the conviction u/s 380 IPC but maintained the one u/s 457 IPC. Hence, this revision.

3. Learned counsel for the applicants submits that the judgment of conviction and order of sentence passed by both the Courts below is arbitrary, illegal and contrary to the law. State counsel however, supports the findings recorded by the both the Courts below.

4. Having gone through the material on record in particular the evidence of PW-2, PW-3 and PW-5 it is apparent that the involvement of the applicant in the crime in question is fully established. Evidence of PW-1 finds corroboration from the evidence of PW-2, PW-3 and PW-5 who have clearly stated that the accused/ applicant was seen running away by taking with him the grocery items but was nabbed by them. Subsequently, the articles were seized in their presence. Under such circumstances, the lower appellate Court has rightly convicted the applicant for offence punishable under Section 457 IPC.

5. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 10 years ago and the applicant has already remained in jail for a period of 46 days and deposited fine amount imposed on him, in my opinion, no useful purpose is going to be served in again sending him to jail. Accordingly, the sentence is reduced to the period already undergone by him.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE