

HIGH COURT OF CHHATTISGARH, BILASPUR

Raju @ Shaildenra Shah, aged about 30 years, S/o Imanuvel Shah,
R/o Shanti Nagar Ward, Jagdalpur, District Bastar (CG)

Versus

State of Chhattisgarh through the District Magistrate, District Bastar
(C.G.) --- Respondent

For Applicant :- Shri Mandwi Bhardwaj, Advocate on behalf
of Shri Shivendu Pandya, Advocate

For Respondent :- Shri Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

04/04/2019

On 08.11.2000 Police Sub Inspector (PW-4) acting upon a secret information regarding teak wood being in possession of the accused/applicant raided his house and found 61 pieces of teak wood and one sofa set. Since the accused/applicant could not furnish any paper showing his possession over these items, seizure thereof was effected and an offence was registered against him under Section 379 IPC and Sections 26 & 52 of the Indian Forest Act followed by filing of charge sheet accordingly. Charge however was framed against the accused/applicant under Section 411 IPC and Section 52 of the Indian Forest Act.

2. Learned trial Court vide its judgment dated 29.01.2008 passed in Criminal Case No.218/2007 held the accused/applicant guilty under Section 411 IPC and Section 26 of the Indian Forest Act and sentenced him to undergo RI for 6 months with fine of Rs.500/-, plus default stipulation. Lower Appellate Court also approved the findings so recorded by the learned Magistrate vide judgment impugned dated 02.04.2008 passed in Criminal Appeal No.10/2008.

3. Counsel for the accused/applicant submits that no offence much less under Indian Forest Act is made out against the accused/applicant but yet

both the Courts below have fallen in serious legal error by holding the accused/applicant guilty as mentioned above without being heedful to the evidence on record. State counsel however supports the judgment impugned.

4. Though the witnesses to seizure examined as PW-1 and PW-3 have not supported the case of the prosecution yet they have admitted their signature on the seizure memo. From their conduct in admitting their signature but resiling from their statement makes it appear that they have been won over by the applicant. Evidence of PW-4 clearly speaks about 61 pieces of teak wood and one sofa set stashed in the house of the accused/applicant and no paper showing his possession over the same has been produced. All these things conclusively go to show that the accused/applicant was not the real owner of the property so seized and it in fact was the stolen one. His conviction, therefore, being just and proper does not call for any interference in this revision and is maintained as such.

5. As regards sentence keeping in mind the fact that the incident had occurred in the year 2000 and that the accused/applicant has already suffered a lot by pursuing the old standing litigation and having been in confinement for about a week, no useful purpose is going to be served in lodging him in jail again. The sentence imposed on him is, therefore, reduced to the period already undergone by enhancing the sentence of fine to Rs.3000/- from that of Rs.500/- as was imposed by the Courts below. Fine amount should be deposited in the trial Court within 4 months from today or else the accused/applicant will not have the benefit of this order.

6. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge