

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 305 of 2008

Judgment reserved on 08.01.2019

Judgment delivered on 19.02.2019

Brijesh Kumar S/o. Suresh Kumar, Aged 31 years, Caste Bhatta,
R/o. Village Darri, Bartola, Police Station Gaurela, District
Bilaspur (C.G.)

---- **Applicant**

Versus

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

---- **Respondent**

For Applicant : Mr. Ravindra Agrawal, Advocate.
For Respondent : Mrs. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

By the judgment under challenge passed on 26.04.2008 by
Additional Sessions Judge Pendraroad, District Bilaspur in
Criminal Appeal No. 4 of 2008, the findings recorded by the
learned Judicial Magistrate First Class, Pendraroad, have been
affirmed.

2. Facts of the case, in short, is that on 20.11.2005, Head
constable Sushil Kumar Banchhor (PW-3) was on patrolling duty,
he received a secret information regarding the applicant was

having a Hero Honda Splendor Motor cycle which was a theft property. When the papers were demanded by the police official, then the applicant could not show any paper and ultimately, he expressed that he has not having any document and the owner of the motor cycle could not be traced out. Ultimately, Istgasha (Ex.P-7) was registered against the applicant under Section 403 IPC.

3. The trial Court found the accused/applicant guilty under Section 304 IPC, which in appeal has also been affirmed vide judgment impugned. Hence, this revision.

4. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. After considering the submissions made by the learned counsel for the parties and looking to the evidence adduced against the applicant before the trial Court, it appears that the testimony of PW-3 and PW-4 appears to be acceptable and

therefore, it is proved beyond doubt that the applicant had a motorcycle with him and he could not show any papers and documents relating the motorcycle. He had found that motorcycle lying then, it was his duty to deposit that motorcycle in the nearest police station but instead of doing so, he was using the same and therefore, he committed an offence punishable under Section 403 IPC. Therefore, the findings of conviction recorded by both the Courts below appear to be fully justified. It is hereby maintained.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 2005, that the accused/applicant has already remained in jail for a period of 15 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.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh