

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 811 of 2008

Bunty @ Harendra Chaturvidani S/o. Narendra Chaturvidani, aged about 23 years, R/o. Magarpara, Behind Satyam Takies, P.S. Civil Line, Bilaspur, District Bilaspur, CG.

---- Applicant

Versus

- State of Chhattisgarh through District Magistrate Bilaspur, CG.

---- Respondent

For Applicant : Shri Tarun Dansena

For State/Respondent : Shri Himanshu Sharma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

16/05/2019

By the judgment impugned dated 28.11.2008 passed in Criminal Appeal No.111/2008, the findings recorded by learned Magistrate on 07.11.2008 in Criminal Case No.2610/2007 convicting the accused/applicant under Section 3 (B) R.P. (U.P.) Act and sentencing him to undergo RI for two years with fine of Rs. 2,000/- have been maintained. The complaint made before the Railway Magistrate goes to show that on 18.05.2007 at about 3.50 AM the accused/applicant was found in possession of two AC bearing plate contained in the plastic bags. No documents or any authorization letter showing the ownership of the same have been produced by him. After completion of investigation charge-sheet was filed against the accused/applicant for the offence referred to above.

2. Learned Magistrate found the accused/applicant guilty and imposed the sentence as mentioned above. In appeal also, the findings recorded by the learned Magistrate have been held to be fully justified and were maintained as such. Hence this revision.

3. Counsel for the accused/applicant submits that the prosecution has not succeeded in proving its case beyond all reasonable doubt and, therefore, both the Courts below have committed an error in convicting and sentencing him as described above. He submits that the judgment impugned being full of mis-appreciation of the facts, is liable to be set aside. State counsel however supports the judgment impugned.

4. The evidence of the witnesses categorically goes to show that the accused/applicant was found in possession of two AC bearing plates and no paper showing his ownership over the same could be produced by him. On examination of the property seized from the accused/applicant, an opinion of the expert was obtained which goes to show that the said property was exclusively of the Railways vide Ex. P-8. From the evidence of PW-2 it also becomes clear that the articles seized from the possession of the accused/applicant are not available in the open market. Thus this Court has no hesitation to say that the prosecution has clearly proved its case beyond all reasonable doubts, and so also the Court below has been fully justified in holding the accused guilty for committing an offence of theft of Railways property. Accordingly, the conclusion drawn by both the Courts below do not appear to suffer from any legal error warranting interference with the judgment under challenge.

5. Revision thus stands dismissed in view of the observations made above.

Sd/-

(Vimla Singh Kapoor)

Judge