

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 239 of 2007

Judgment Reserved on 29.03.2019

Judgment delivered on 04.12.2019

1. Mohammad Shakil S/o. Late Abdul Hafiz, Aged about 38 years, R/o. Mahuarpara, Ward No. 10, Thana Manendragarh, District Korea (C.G.)
2. Vinod Kumar Gupta S/o. Mohan Lal Gupta, Aged about 38 years, R/o. At present Railway Quarter Hasdev Bridge, Amakhera Basti, Thana Manendragarh, District Korea (C.G.)Permanent R/o. Village and Thana Annuppur District Annuppur (M.P.)

----Applicants

Versus

Union of India through Police Station RPF, Thana Manendragarh
District Korea (C.G.)

---- Respondent

For Applicants : Mr. Roop Naik, Advocate
For Respondent : Mr. Abhishek Sinha, Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

1. Facts of the case in brief are that, K.P. Sinha (PW-1) Sub-Inspector, Railway Protection Force, Manendragarh received a secret information from the informer regarding theft of Railway property. On 20.04.2005 at midnight, he along with his staff reached the place and saw that 77 pieces of CST-9 plates belonging to Railway were loaded by some persons in a mini truck Tata 407 bearing registration No. CG-04 J 0278. They stopped the accused/applicants and as during inquiry, they did

not offer proper explanation, they were searched in presence of his staff members. Those persons, however, failed to explain as to how they came in possession of the Railway properties recovered from them. They could not even produce any authority letter for carrying the same. On inquiry, it was revealed from the statements of the accused/applicants that they have stolen the Railway property. After investigation charges under Section 3(A) of the Railway Property (Unlawful Possession) Act, 1966 were framed against them.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 3(A) of the Railway Property (Unlawful Possession) Act, 1966. The findings recorded by the trial Court have subsequently been confirmed by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.
4. Counsel for the accused/applicants submit that both the Courts below have fallen into a serious error in convicting the accused/applicant under Section 3(A) of the Railway Property (Unlawful Possession) Act and the findings so recorded are contrary to the evidence led by the prosecution. They submit that no independent eye-witnesses were examined by the prosecution to prove its case and only on the basis of the statements of the police witness as well as the Railway employee convicted and sentenced the accused/applicants. They submit that since the trial Court as well as the appellate Court have not

considered the fact that the prosecution has failed to establish their case beyond reasonable doubt, the judgment impugned is liable to be set aside.

5. State counsel however supports the judgment impugned and submits that the findings recorded by both the Courts below convicting and sentencing the accused/applicant as mentioned above are based on the proper appreciation of the evidence on record and, therefore, no illegality or infirmity is traceable in the same worth interference in this revision.
6. Having heard the learned counsel for the parties and gone through the materials available on the record, it is clear that 77 pieces of CST-9 plates belonging to Railway were loaded by some persons in a mini truck Tata 407 bearing registration No. CG-04 J 0278 was seized by the official of Railway Police. This has been proved by PW-1, PW-2, PW-3 and PW-5 on material particulars. The accused/applicants have also failed to file any authority letter or receipt etc. to show their legitimate ownership of the same. It is also evident from the evidence of PW-4 that the articles seized by the prosecution were exclusively of the Railways which are being used for laying sleeper over the railway track. Seizure of the stolen property made under Ex.P-1, Ex.P-2 and Ex.P-3 and the one splendor and Tata 407 bearing registration No. CG-04 J 0278 were seized from the applicants, 12 duly proved by PW-1 also demonstrates the involvement of the accused/applicants in commission of crime in question. All other witnesses- some being the police people and some the

employees of the Railways have also supported the case of the prosecution and there is no reason for this Court to disbelieve or discard the same. Thus, the evidence on record is well enough to uphold the conviction of the accused/applicants for the offence under Section 3(A) of the Railway Property (Unlawful Possession) Act, 1966 and it is done so.

7. Resultantly, the revision fails and is hereby dismissed.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh