

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 271 of 2010

Judgement reserved on 27.03.2019

Judgement delivered on 04.12.2019

1. Pushpanath, Aged about 50 years, S/o. Anand Ram Sahu,
2. Danurjay Sahu, Aged about 30 years, S/o. Pushpanath Sahu

Both are resident of village Jamjuda, P.S. Basna, District Mahasamund (C.G.)

---- **Applicants**

Versus

State of Chhattisgarh through P.S. Basna, District Mahasamund (C.G.)

---- **Respondent**

For Applicant : Mr. J.A. Lohani, Advocate
For Respondent : Mr. Raghvendra Verma, GA

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

1. Facts of the case in brief are that complainant Tejkumar Sahu lodged FIR Ex.P-1 in Police Station Basna, alleging therein that in the intervening night of 16-17/01/2004, 10 MM wire of Kent company connected with the bore well installed in his field was stolen by unknown person. The matter was inquired and it was found that the theft wire belonging to the complainant was used by the applicants in their field for operating tube well pump. After

completion of investigation, charge sheet was filed against the applicants under Section 379 IPC.

2. By the judgment dated 03.09.2009 learned trial Court convicted the accused/applicants under Section 379 IPC and sentenced them to undergo RI for six months and to pay fine of Rs. 500/- each. The findings recorded by the trial Court have subsequently been modified by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.
3. Counsel for the applicant submits that the Courts below have committed an error in convicting and sentencing the accused/applicant as mentioned above though the evidence led by the prosecution was lacking and therefore, the same may be set aside. He submits that Courts below completely overlooked that the material on record and erroneously convicted and sentenced the accused/applicants as mentioned above.
4. State counsel, however, supports the judgment impugned.
5. The material on record including the evidence of PW-2 the lodger of the report goes to show that the wire used by the accused/applicants for operating his own tube well pump was recovered from his field but he could not produce any bill or receipt showing his ownership over the same. The person from whom the accused/applicant is said to have purchased the said wire has also denied any such sell by him. Seizure of the wire made from the field of the applicant get corroboration from the evidence of PW-4 and PW-22. All other witnesses 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 379 IPC and it is done so.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh