

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 235 of 2008

Hemraj @ Bablu S/o. Mahadeo, Aged about 31 years, R/o. Railway Quarter No. 77/A-4, Banglayard, Police Station Tarbahar, Bilaspur District Bilaspur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station RPF Bilaspur (Railway Protection Force) Tahsil and District Bilaspur (C.G.)

---- Respondent

For the Applicant : Mr. Keshav Dewangan, Advocate

For the Respondent : Mr. Abhisekh Sinha, Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 30.04.2019

The judgment under challenge in this revision petition is dated 12.03.2008 passed by Additional Sessions Judge Bilaspur, in Criminal Appeal No. 18/2008, affirming the judgment dated 24.12.2007 passed by Special Railway Magistrate, Bilaspur, in Criminal Case No. 307/2006 convicting the accused/applicant under Section 3 (A) of Railway Property Unlawful Possession Act, 1966 and sentencing him to undergo RI for 1 year with fine of Rs. 1000/- plus default stipulation.

2. The facts of the case, in brief, is that on 26.11.2005, ASI Bhuiwanlal along with his staff searched the applicant and from his possession, he found two tiebar at length of 9 feet which

appeared to belong to the railway. On enquiry, the applicant did not produce any authority letter and accepted the seized articles to be stolen from railway yard. The statement of the witnesses were recorded and the tiebars were seized from the applicant. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. Learned trial Court after taking into consideration the material on record, convicted and sentenced the accused/applicant as directed above which on appeal, has also been affirmed vide judgment impugned which is the subject matter of this revision.

4. Counsel for the applicant, at the very outset, submits that the would not lay much emphasis on the conviction of the applicant and would confine herself with the sentence part of the judgment impugned only. He submits that as the applicant has already been set free after completing the jail sentence imposed on him, nothing substantial remains to be decided in this revision.

5. State counsel however, supports the findings recorded by the both the Courts below. He however, admits that the accused/applicant has completed the sentence and has been released from jail as is evident from the report of jail Superintendent, District Jail Raigarh dated 09.12.2018.

6. From the statement of the (PW-1), (PW-2) and (PW-3), it is proved that from the possession of this applicant, 9 feet of tiebar belonging to railway recovered from him and the applicant has

not given any satisfactory explanation regarding the lawful possession of the same. Thus, offence under Section 3 (A) of Railway Property Unlawful Possession Act, 1966 made out. From the deposition of the witnesses there is no vital contradiction in the evidence adduced by the prosecution. In these circumstances, learned courts below have rightly accepted the same and convicted the applicant under 3 (A) of Railway Property Unlawful Possession Act, 1966. Thus, I find no reason to interfere with the judgments of the courts below, which are based upon the evidence. It is hereby maintained.

7. In aforesaid view of the manner, in particular keeping in mind the report of the Jail Superintendent, Central Jail, Bilaspur, dated 09.12.2018 to the effect that the accused/applicant after getting the benefit of remission has been released from jail on 23.08.2008, this Court does not wish to observe anything except recording dismissal of the revision petition. Order accordingly.

8. Revision thus dismissed.

Sd/-

(Vimla Singh Kapoor)
JUDGE

Santosh