

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 476 of 2008

Judgment Reserved on 29.04.2019

Judgment delivered on 27.11.2019

Ramu Kashyap @ Ramawtar Kashyap, S/o. Parmeshwar Prasad,
Aged about 25 years, R/o. Near the house of RamPrashad, Yadav
Nagar, Tifra, Police Station Civil line, District Bilaspur (C.G.)
Permanent Resident village Garvat, Suryavanshi Mohalla, Police
Station Ratanpur, District Bilaspur (C.G.)

----Applicant

Versus

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

---- Respondent

with

Criminal Revision No. 486 of 2008

1. Ramvilas Chouhan S/o. Chandradev Chouhan, Aged about 33
years, R/o. Near Bus Stand, Police Station City Kotwali, Bilaspur,
District Bilaspur (C.G.)
2. Shobharam S/o. Late Ajit Ram, Aged about 45 years, R/o. Village
Salfa, P.S. Hirri, District Bilaspur (C.G.)

----Applicants

Versus

State of Chhattisgarh, through Station House In-charge Railway
protection Force (RPF), Pendraroad, District Bilaspur (C.G.)

---- Respondent

with

Criminal Revision No. 491 of 2008

1. Asha Ram S/o. Radhelal, Aged about 27 years, R/o. Village
Dhardehi, P.S. Patharia, District Bilaspur (C.G.)

2. Mayaram S/o. Chhediram, Aged about 23 years, R/o. Village Kharsila, Police Station Pathariya, District Bilaspur (C.G.)
3. Gyani Shrivastava S/o. Mangalram, Aged about 25 years, R/o. Ganga Sagar, Belgahna, District Bilaspur (C.G.), Permanent Address village Salka, School Mohalla, P.S. Kota, District Bilaspur (C.G.)

----Applicants

Versus

State of Chhattisgarh, through Station House In-charge Railway protection Force (RPF), Pendraroad, District Bilaspur (C.G.)

---- Respondent

For Appellants	:	Mr. D.C. Verma and Mr. Sunil Sahu, Advocates
For Respondent	:	Mr. R.S. Patel and Mr. Sbishek Sinha, Advocates

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

1. Since all the revisions arise out of the same judgment dated 17.07.2008 passed by Sessions Judge, Bilaspur (C.G.), in Criminal Appeal No. 31 of 2008, they are being disposed of by this common order.
2. Facts necessary for disposal of the cases are that on 18.12.2005, M.K. Mukharjee (PW-1) Inspector, Railway Protection Force, Pendraroad received a secret information from the informer regarding theft of Railway property. On 19.12.2005 at about 20.30 PM, he along with his associates reached the place and saw that CST-9 plates belonging to Railway were loaded by some

persons in two vehicles namely Tata 207 and Tata 407. They stopped the accused/applicants and as during inquiry, they did not offer proper explanation, they were searched in presence of his staff members. 70 pieces of railway CST-9 plates were found in Tata 207, 90 pieces of railway CST-9 plates and 16 pieces of broken CST-9 plates were found in Tata 407 which was in their possession. 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/applicant that they have stolen the Railway property and the said railway property was hidden in the forest. 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 70 pieces of CST-9 plates from accused/applicant Asharam, Mayaram and Gyaniram which were loaded in Tata 207 and 90 pieces of CST-9 plates and 16 pieces of broken CST-9 plates were loaded in Tata 407 which was in possession of accused/applicant Ramvilas Chouhan, Ramu Kashyap and Shobharam. This has been proved by PW-1 and PW-2 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. On the contrary, the Expert report Ex.P-23 goes to show that those

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-7 and 8 and the vehicle seized under Ex.P-12 duly proved by PW-6 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. As regards sentence, keeping in view the fact that the incident had taken place in the year 2005, that the applicants have already remained in jail for a period of about two months and six days and further that by now they must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on them to the period already undergone. Order accordingly

Sd/-

(Vimla Singh Kapoor)
JUDGE