

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 523 of 2008

Sunil Kumar Koudiya, S/o Sundar Lal Koudiya, age 28 years, R/o village Diwanpur, Thana Pathalgaon, District Jashpur (CG)

---- Applicant

Versus

The State of Chhattisgarh through Police Station Pendra, District Bilaspur (C.G.)

--- Respondent

For Applicant : Shri Sanjay Agrawal, Advocate

For Respondent : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

05/03/2019

According to the FIR (Ex. P-1) lodged by complainant - Lalji Patel (PW-1) it is apparent that on 15.12.2006 when he was buying the eggs after parking his Hero Honda motorcycle bearing registration No. CG-10/E.A./5956, the accused/applicant herein along with his colleague came there and took away a bag kept in the dickey which contained cash of Rs.1000/- and other miscellaneous articles including one diary. After the complainant noticed this he along with his friend Deepak tried to chase him and ultimately succeeded in catching hold of the accused/applicant herein but the other one fled away from the spot. On the memorandum of accused/applicant (Ex. P-2) seizure of handbag containing money and other articles was seized under Ex.P-3 and accordingly an offence under Section 379 IPC was registered against him.

2. Learned trial Court on the basis of material produced by the prosecution convicted the accused/applicant under Section 379 IPC and sentenced him to RI for 3 years with fine of Rs.100/- vide judgment dated 22.01.2008 passed in Criminal Case No.1581/2006. The judgment passed by the trial Court has subsequently been affirmed by the lower Appellate Court vide judgment dated 30.07.2008 passed in Criminal Appeal No.08/2008. Hence this revision.

3. Counsel for the applicant submits that both the Courts below have not considered the evidence of the witnesses in proper perspective and thereby committed an error in convicting the accused/applicant on casual appreciation thereof. He thus submits that the judgment impugned being not based on proper examination of the material on record is liable to be set aside.

4. State counsel however supports the judgment impugned and submits that both the Courts below have not committed any error in convicting and sentencing the accused/applicant as mentioned above.

5. Having seen the evidence of the witnesses in particular the Complainant (PW-1), PW-3, PW-4, PW-5 and PW-6 it gets crystallized that the accused/applicant along with his colleague came on a motorcycle and took away the bag kept in the motorcycle of the complainant containing cash of Rs.1000/- and other household articles contained therein. From the record it is also clear that when PW-1 along with his friend chased the accused/applicant he dropped the said bag and was also caught hold of. After being picked up by the complainant (PW-1) seizure of the said bag containing the articles described above which was made under Ex. P-3. Both the Courts below, therefore, cannot be said to be at fault in convicting the accused/applicant under Section 379 IPC and being so, his conviction is hereby maintained.

6. However, considering the fact that the incident had taken place in the year 2006 and thereby more than 13 years have rolled by therefrom, and further keeping in view that he has already remained in detention for 9 months and 13 days, this Court thinks it in the interest of justice to reduce the sentence imposed on him to the period already undergone. Order accordingly.

7. Revision thus allowed in part.

**Sd/-
(Vimla Singh Kapoor)**

Judge