

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 261 of 2010

1. Kanhaiyalal S/o. Ram Pyare, Aged about 22 years,

2. Devi Dayal S/o. Ram Kishun, Aged about 21 years,

Both by caste Yadav, R/o. Village Chandani, P.S. Chandani,
Tahsil Odgi, District Sarguja (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through Police Station Chandani, Biharpur
District Sarguja (C.G.)

---- Respondent

For Applicant : Mr. Bishnumuni, Advocate on behalf of
Mr. D.N. Prajapati, Advocate

For Respondent : Mr. Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

29.03.2019

On 20.07.2009 FIR (Ex.P-2) was lodged by Abhimanu Mourya the then in-charge Principal of Govt Higher Secondary School Biharpur (PW-1) alleging that on 19.07.2009 at about 10.45 PM, the applicant No.1 along with Devi Dayal committed theft of Rs. 47,000/- after breaking lock of the school and almirah. After sometime, the peon of the school heard a sound of breaking the lock and he rushed to the spot and they found the applicant No.1 at the spot. After completion of investigation, charge sheet was filed against them under Sections 457, 380/34 IPC and charge was framed accordingly.

2. By the judgment dated 10.03.2010 learned trial Court convicted the accused/applicants under Sections 457 and 380/34 IPC and imposed the sentence of RI for 1 year with fine of Rs.200/- each of them u/s 457 IPC, RI for one year u/s 380/34 IPC. However, the finding of conviction recorded by the trial Court has subsequently been confirmed by the lower Appellate Court and the sentence part modified. Hence, this revision.

3. Counsel for the applicants submit that the Courts below have committed an error in convicting and sentencing the accused/applicants as mentioned above though the evidence led by the prosecution was lacking and therefore, the same may be set aside. State counsel, however, supports the judgment impugned.

4. After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, I am of the view that the concurrent opinion given by both the courts below on facts should not be disturbed unnecessarily. A broken lock and an iron rod were seized under Ex.P-9 by the police during the investigation, and therefore both the Courts below have rightly believed the prosecution witnesses. It is apparent from the statement of the witnesses that the applicant No.1 was caught raid handed by the peon (PW-2) of the school and the currency note which was stolen from the school were seized under Ex.P.7 and Ex.P-8. Therefore, the findings of conviction recorded by both the Courts below appear to be fully justified. It is hereby maintained.

5. In aforesaid view of the manner, in particular keeping in mind the report of the Jail Superintendent, Central Jail, Ambikapur, dated 28.03.2018 to the effect that the accused/applicants after completing the entire jail sentence have been released from jail on 19.03.2010, this Court does not wish to observe anything except recording dismissal of the revision petition. Order accordingly.

6. Revision thus dismissed.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh