

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 275 of 2010

Saroj Kumar Patel, S/o. Shri Chamraram Patel, Aged about 38 years, R/o. Siliyari Bhata, Police Chowki Urga, Police Station Korba District Korba (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate, District Korba Police Station Korba (Police Chowki Urga) District Korba (C.G.)

---- Respondent

For Applicant : Mr. Ramakant Pandey, Advocate.

For Respondent : Mr. Raghvendra Verma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 16.05.2019

This revision is directed against the judgment dated 18.06.2010 passed by the Additional Sessions Judge (FTC) Korba (C.G.), in Criminal Appeal No. 14 of 2010, modifying the judgment of conviction and order of sentence dated 12.03.2010 passed by the Chief Judicial Magistrate, Korba, in Criminal Case No. 740/2003, convicting the accused/applicant under Section 435 IPC and sentencing him to undergo RI for three months and to pay fine of Rs. 2000/- plus default stipulation.

2. Facts of the case, in short, are that on 15.05.2003 at about 2.30 PM, the applicant demanded wood log for domestic

purpose from complainant Badrinarayan. On being refused by the complainant the applicant started quarrel with him and put the nursery on fire, as a result of which 12 pieces of bamboo tree, 180 shrubs of bamboo, 120 trees of Amrud, 376 trees of Kamahar, 295 shrubs of Karonda and 883 trees of Nilgiri total value of Rs. 20,000/-was destroyed by him. A written report (Ex.P-2) was made by the PW-1 in Police Station Urga against the applicant and on the basis of which FIR (Ex.P-1) was lodged. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 435 IPC. The findings recorded by the trial Court have subsequently been modified by the lower appellate court. Hence, this revision.

4. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. Having heard counsel for the parties and perused the material available on record including the evidence of PW-2 who

proved the FIR (Ex.P-1) and that of PW-3 who proved the seizure made under (ExP-3) and (Ex.P-4) and as per loss panchanama (Ex.P-5), total loss sustained by complainant was of Rs. 20,000/-, it gets crystallized that the accused/applicant was involved in the crime in question. The statement of all these witnesses are quite consistent and therefore there is no reason to disbelieve or discard the same. In this view of the matter, both the Courts below appear to have been fully justified in holding the accused/applicant guilty under Section 435 IPC and therefore, no infirmity or illegality is visible in the judgment under assail.

7. As regards sentence, keeping in view the fact that the incident had taken place in the year 2003, that the accused/applicant has already remained in jail for a period of about 07 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. In lieu of this, the applicant however, would be required to pay an enhanced sum of fine of Rs. 5000/- from that of Rs. 2000/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of four months from today. Order accordingly.

8. With the above, the revision stands allowed in part.

Sd/-

(Vimla Singh Kapoor)

JUDGE