

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 536 of 2010

Bhogilal @ Ravishankar, S/o Shri Kriparam Patel, Aged about 56 years,
Occupation – Agriculture, R/o Village Chilkharoda, P.S. Jaijaipur, District –
Janjgir – Champa, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh, Through P.S. Sarangarh, Raigarh, Chhattisgarh

---- Respondent

CRR No. 537 of 2010

Bhogilal @ Ravishankar, S/o Shri Kriparam Patel, Aged about 56 years,
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CRR No. 538 of 2010

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---- Respondent

For Applicant	:	Shri Shakti Raj Sinha, Advocate
For Respondent/State	:	Shri R.S. Baghel, Dy. A.G.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

02.08.2019

1. The present revision CRR No.536/2010 arising out of Criminal Appeal No.11/2010, CRR No. 537/2010 arising out of Criminal Appeal No.12/2010 and CRR No.538/2010 arising out of Criminal Appeal No.13/2010 are being disposed off by this common order as in all these criminal matters the applicant is one and same and was prosecuted for the offence punishable under Section 420 of the Indian Penal Code (on three counts) and sentenced to undergo RI for three years along with fine of Rs.2000/-, RI for two years along with fine of Rs.1000/- and RI for one year along with fine of Rs. 2000/- respectively, with default stipulations, vide judgment dated 16.04.2007, 24.12.2005 and 24.12.2005, which was confirmed by the learned Additional Sessions Judge, Sarangarh, District – Raigarh, vide judgments dated 30.07.2010, 31.07.2010 and 31.07.2010.

2. Briefly stated cases of the prosecution are that the applicant cheated the complainants by taking away their motor cycles and gold necklace. Three cases were registered against applicant in different crime numbers, and after investigation, three charge sheets were filed against him.

3. Learned trial Court, on the basis of statements of the prosecution witnesses, convicted the applicant under Section 420 of the Indian Penal Code and sentenced him to undergo RI for three years along with fine of Rs.2000/- (in Criminal Case No. 258/2005), RI for two years along with fine of Rs.1000/- (in Criminal Case No.913/2004) and RI for two years along with fine of Rs.1000/- (in Criminal Case No.955/2004), with default stipulations. On appeal, the conviction has been maintained but the sentence awarded in (CRR No.538/2010) Criminal

Case No.955/2004, has been reduced to RI for one year along with fine of Rs.2000/-, with default stipulation. Hence, the present revision.

4. Learned counsel for the applicant has pressed this revision petition only on the ground that while imposing sentence of imprisonment on the applicant, both the Courts below have not taken into consideration the provisions of Section 427 of the Cr. P.C. From perusal of judgment of conviction and order of sentence, it would be clear that the applicant was sentenced to undergo rigorous imprisonment for three years, two years and one year on the three different date, for three different offences of similar nature under Section 420 of the IPC. However, there is no direction that the subsequent sentences shall run concurrently with the previous sentence. In support of his argument, he placed reliance on the judgments in the matters of **Ammavasai and another Vs. Inspector of Police, Valliyanur and ors.**¹ this Courts' order dated 03.09.2007, passed in CRR Nos. 62/2005, 63/2005, 64/2005 and 65/2005, **Jai Kishan Vs. State of Haryana**² (Punjab and Haryana High Court) **vide judgment dated 16.08.2001, Shersingh Vs. State of M.P.**³ and **Bhogal Vs. State of M.P.**⁴.

5. I have heard counsel for the parties and perused the material available on record.

6. This Court does not see any illegality in the findings recorded by the Courts below regarding conviction of the applicant and the conviction of the applicant is being so, hereby maintained.

1 AIR 2000 S.C. 3544

2 2001 INDLAW PNH 85

3 1989 Cri.L.J. 632

4 1996 (2) MPWN 111

7. In the matter of Shersingh(supra), the Full Bench of M.P. High Court, and in the matter of Bhogal (supra), the High Court of M.P. has directed that the sentences awarded to the applicant may run concurrently.

8. The Hon'ble Apex Court in the matter of Ammavasai and another (supra) while dealing with the conviction under Section 395 of the IPC and sentence of seven years' R.I. in four cases, has directed that the appellants shall undergo total period of 14 years imprisonment in respect of all convictions passed against them.

9. Learned counsel for the applicant also filed a report from Central Jail, Bilaspur, which shows that the applicant is in jail since eight years and seven months, in connection with different crime number in different cases.

10. In the light of Hon'ble Apex Court judgment and the order of this Hon'ble Court, it is, therefore, directed that the sentence of RI for three years, RI for two years and RI for one year in Criminal Case No.258/2005, Criminal Case No.913/2004 and Criminal Case No.955/2004, shall run untelescoped by any other sentence imposed upon him subsequently. In other words, the sentence imposed in subsequent cases would start running only on the termination of the sentence imposed upon him in the aforementioned criminal cases (Criminal Case No.258/2005, Criminal Case No.913/2004 and Criminal Case No.955/2004).

11. It is further directed that the sentence of RI for three years, RI for two years and RI for one year, imposed upon the applicant in the

following three cases shall run concurrently.

- a) Criminal Case No.58/2005 (Cr. A. No.11/2010) in the Court of J.M.F.C. Sarangarh.
- b) Criminal Case No.913/2004 (Cr.A.No.12/2010) in the Court of J.M.F.C. Sarangarh.
- c) Criminal Case No.955/2004 (Cr.A.No. 13/2010) in the Court of J.M.F.C. Sarangarh.

However, the fine imposed on the applicant by the trial Court in the aforementioned cases shall remain as it is.

12. As regards sentence, keeping in view the fact that the applicant is in jail since eight years and seven months in other cases, and further considering the fact that the applicant has already faced a prolonged trial and suffered trauma of uncertainty arising out of his conviction by the Courts below, the jail sentence is reduced to the period already undergone by him. The sentence of fine is affirmed. The applicant be released forthwith, if not required in any other case.

13. In the result, the revision is allowed in part, to the extent indicated above.

Sd/-
(Rajani Dubey)
JUDGE