

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.30 of 2013

Antram, S/o Budga Chouhan, aged about 36 years, resident of Village Ghumabhatha, Thana Basna, District Mahasamund, Chhattisgarh

---- **Applicant**

versus

State of Chhattisgarh through the District Magistrate, Mahasamund, District Mahasamund, Chhattisgarh

--- **Respondent**

For Applicant	:	Shri Sunil Sahu, Advocate
For Respondent	:	Shri Amit Singh, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

20.6.2019

1. This revision has been preferred against the judgment dated 14.2.2012 passed by the 2nd Additional Sessions Judge, Mahasamund in Criminal Appeal No.157 of 2010 arising out of the judgment dated 13.7.2010 passed by the Judicial Magistrate First Class, Pithora, District Mahasamund in Criminal Case No.239 of 2010 convicting the Applicant under Section 34(1)(a) of the Chhattisgarh Excise Act and sentencing him with rigorous imprisonment for 3 months and fine of Rs.5,000/- with default stipulation.
2. Case of the prosecution, in brief, is that on 15.2.2010, Assistant Sub-Inspector S.L. Navratna (PW3) was on patrolling duty. He received information from an informant that the Applicant has kept liquor. On the basis of the information, he made a search and seized 13 quarters of country-made masala liquor vide seizure memo (Ex.P1). The seizure was made in presence of Sanjay (PW1) and Munna (PW2). He lodged a *Dehati Nalishi* (Ex.P4). After return to the police station, on the basis of the said *Dehati*

Nalishi, he registered First Information Report (Ex.P5). The seized liquor was examined by Excise Sub-Inspector B.S. Rathore (PW4). On completion of the investigation, a charge-sheet was filed before the Judicial Magistrate First Class, Pithora. The Trial Court convicted and sentenced the Applicant as mentioned in first paragraph of this order. The Appellate Court/2nd Additional Sessions Judge, Mahasamund, vide the impugned judgment dated 14.2.2012, affirmed the conviction and sentence of the Applicant. Hence, this revision.

3. Learned Counsel appearing for the Applicant submits that the prosecution has failed to establish its case beyond reasonable doubt. Both the seizure witnesses are pocket witnesses of the prosecution. Their testimony is not reliable. Thus, the conviction and sentence imposed upon the Applicant is contrary to the material available and law and, therefore, the impugned judgment deserves to be set aside.
4. Learned Counsel appearing for the Respondent/State opposes the revision and supports the impugned judgment.
5. I have heard Learned Counsel appearing for the parties and perused the records with due care.
6. Investigating Officer Assistant Sub-Inspector S.L. Navratna (PW3) has categorically deposed that on the basis of information received from an informant he made a search and seized 13 quarters of masala liquor from the possession of the present Applicant vide Ex.P1. Both the seizure witnesses Sanjay (PW1) and Munna (PW2) have duly corroborated the statement of S.L. Navratna (PW3). From the statement of B.S. Rathore (PW4), who examined

the liquor, it is clear that the seized liquor was found to be country-made masala liquor. From the above, it is clear that the prosecution has been able to prove its case beyond reasonable doubt. Therefore, the finding of conviction arrived at by both the Courts below is in accordance with law. I do not find any illegality or perversity in the conviction imposed upon the Applicant. Hence, the conviction is affirmed.

7. As regards the sentence, the seized liquor was found to be of a small quantity. The Applicant is a villager and he has no criminal antecedent. Therefore, in my considered view, in place of the rigorous imprisonment for 3 months, sentencing the Applicant with rigorous imprisonment for 1 month would serve the ends of justice. Ordered accordingly. The period already undergone by the Applicant shall be adjusted in the period of rigorous imprisonment of 1 month imposed upon him today. The sentence of fine of Rs.5,000/- imposed upon him by the Court below is affirmed.
8. Consequently, the revision is allowed in part to the extent indicated above.
9. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge