

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 13 of 2008

- Narayan Prasad, S/o Panchram Anant, aged about 60 years, R/o Rasaut, P.S. Akaltara, District-Janjgir-champa, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through District Magistrate, District-Janjgir Champa, Chhattisgarh.

---- Respondent

For Applicant : Mr. M.K. Baeg, Advocate.
For Respondent/State: Mr. Devendra Pratap Singh, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/06/2020

Heard.

1. This revision petition has been brought against the judgment dated 19.12.2007 passed by the Sessions Judge District-Janjgir-Champa in CRA No.38/2007 upholding the judgment of conviction and order of sentence dated 8.10.2007 passed by the trial Court in Criminal Case No. 227/2007 convicting applicant under Section 39 of Indian Electricity Act, 1910(for short 'the Act') and 304-A of Indian Penal Code, 1860(for short 'IPC') and sentencing him to undergo RI for 1 year and fine of Rs.500/- with default stipulation and RI for 1 year and fine of Rs.500/- with default stipulation.
2. Facts of the case, in brief, are that the applicant and his son Rajesh Kumar had been prosecuted for committing theft of electricity by an illegal electric connection from the electric pole to their place of residence. On 22.6.2002 said illegal connection got disconnected and for that reason, it is alleged that this applicant had engaged deceased Shiv Kumar Anant for re-connection of that illegal electricity connection. As per facts of the case, the deceased held live wire of

disrupted connection, therefore, he suffered electrocution and died on the spot itself. Morgue intimation and FIR were lodged. After investigation of case, this applicant and co-accused Rajesh Kumar were charge-sheeted.

3. The trial Court framed charges against this applicant and co-accused under Sections 379 & 304A of IPC r/w Section 39 of Indian Electricity Act, 1910 (for short 'the Act'). Applicant and co-accused pleaded innocence and sought for trial. The trial was conducted and on completion thereof, this applicant and co-accused both were convicted under Section 39 of the Act, 1910 and each of them has been sentenced to undergo R.I. for one year and to pay fine of Rs.500/-, with usual default clause. They were also convicted under Section 304A of IPC and sentenced to undergo R.I. for one year and to pay a fine of Rs.500/- each, with default stipulation.
4. This judgment of conviction and sentence was challenged in an appeal and the appellate Court by the impugned judgment, dismissed the appeal of this applicant. However, appeal of co-accused Rajesh Kumar was allowed and he was acquitted of the charges.
5. It is submitted that finding of conviction recorded by the trial Court as well as the appellate Court both are erroneous and without support of prosecution evidence, therefore, the conviction against this applicant is bad in law. It is further submitted that the applicant is now about 73 years of age and he has become blind. In these circumstances, if this Court is not inclined to allow this revision for setting aside the conviction, then the sentence of imprisonment imposed upon the applicant by the trial Court be reduced to the sentence of imprisonment already undergone by applicant.
6. Learned State counsel opposes the petition and submissions made in this respect. It is submitted that the prosecution has proved its case beyond reasonable doubt. There is clear statement of one witness PW-3 Kailash Bai involving this applicant in the commission of crime, which is sufficient to draw conclusion of guilt against this applicant. Other witnesses had given description of circumstances under which the incident had taken place, which further involves the applicant in the

said commission of crime. Therefore, there is no room of interference in the impugned judgment and this revision petition is liable to be dismissed.

7. I have heard both the parties and perused the documents on record.
8. On perusal of the statement of the witnesses present in the record of trial Court and making appreciation of the same, I am of this view that that learned trial Court as well as the appellate Court both have not committed any error in coming to this conclusion that this applicant has committed offence under Section 39 of the Act, 1910 and under Section 304A of IPC, therefore, I find no reason for interference in the finding of conviction against the applicant in the impugned judgment and the same is hereby affirmed.
9. As regards the quantum of sentence, taking note of the fact that the occurrence is about 18 years old, considering the advance age of applicant i.e. 73 years and fact that he has already undergone 1 month & 20 days of jail sentence, I am of the view no useful purpose would be served in again sending the applicant back to jail to serve out remaining jail sentence. Therefore, this Court feels that ends of justice will be met if the substantive sentence of applicant is reduced to the period already undergone by him.
10. In the result, the revision petition is allowed in part. Conviction of the applicant under Section 39 of the Act, 1910 & Section 304 of IPC is hereby maintained, however, the substantive sentence imposed upon applicant by the trial Court and upheld by the appellate Court is hereby modified as sentence of imprisonment for the period of detention already undergone by applicant. Fine sentence imposed against the applicant is set aside and instead, he is directed under Section 357 (3) of CrPC to pay a compensation of Rs.60,000/- to the wife/dependent of deceased Shiv Kumar Anant, within a period of three months from today. In case of default in making payment of compensation, the applicant will have to undergo a default sentence of SI for 6 months.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha

