

HIGH COURT OF CHHATTISGARH, BILASPUR
Criminal Revision No. 759 of 2008

Ramdhan Banjare S/o. Ganesh Ram Banjare, aged 39 years, R/o. Nayapara Near Dheka Paper Mill, Police Station Torwa, District Bilaspur (CG) ----**Applicant**

Versus

State of Chhattisgarh through PS Railway Protection Force, Bilaspur District Bilaspur (C.G.) --- **Respondent**

For Applicant : Mr. K.K. Dewangan, Advocate
For Respondent/ State : Mr. Sameer Sharma, Dy. G. A.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board passed on 10.12.2020

On 18.05.2020, It was informed by the in-charge of police Station Torwa District Bilaspur, that the accused/applicant died on 09.06.2013 due to snake bite. Though the accused/applicant died during the pendency of this revision yet in the light of the order passed by the Hon'ble Apex Court in the matter of **Pranab Kumar Mitra vs. State of WB** reported in **AIR 1959 SC 144**, this Court proceeds to decide this case on its merits.

2. Case of the prosecution, in brief, is that on 20.04.2005 at about 8.40 PM, S.L. Gautam (PW-1) Assistant Sub Inspector, Railway Protection Force, Bilaspur was on patrolling duty along with the staff at Lalkhadan. During patrolling duty, he suspected one unknown person and he stopped him. Thereafter, the accused informed his name as Ramdhan Banjare. Statement of

accused was recorded under Ex.P-1 in the presence of witness and he was searched by PW-1. During search, two pieces of bearing plate and 10 pieces of pendal clips was seized from white polythene which he was kept in his hand thereafter a list of seizure (Ex.P-2) was issued to him and he was arrested. The accused, however, failed to explain as to how he came in possession of the Railway properties. He could not even produce any authority letter for carrying the same. On inquiry, it was revealed that the property seized from the possession of the accused was railway property. After investigation charges under Section 3(B) of the Railway Property (Unlawful Possession) Act, 1966 was framed against him.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 3(B) of the Railway Property (Unlawful Possession) Act, 1966. The findings recorded by the trial Court has subsequently been confirmed by the lower Appellate Court by the judgment impugned and it is that which is under challenge in this revision.

4. Counsel for the accused/applicant submit that both the Courts below have fallen into a serious error in convicting the accused/applicant under Section 3(B) of the Railway Property (Unlawful Possession) Act and the findings so recorded are contrary to the evidence led by the prosecution, therefore, the judgment liable to be set aside.

5. Heard the State counsel and perused the evidence on record.

6. Having heard the learned counsel for the parties and gone through the materials available on the record, it is clear that two pieces of bearing plate and 10 pieces of pendal clips was seized from the applicant which was belonged to Railway. This has been proved by PW-1, PW-2, PW-3 and PW-4 on material particulars. The accused/applicant has also failed to file any authority letter or receipt etc. to show his legitimate ownership of the same. It is also evident from the evidence of PW-4 under Ex.P-8 that the articles seized by the prosecution were exclusively of the Railways which are being used for faster the rail and sleeper. Seizure of the stolen property also demonstrates the involvement of the accused/applicant in commission of crime in question. All other witnesses- some being the police people and some the employees of the Railways have also supported the case of the prosecution and there is no reason for this Court to disbelieve or discard the same. Thus, the evidence on record is well enough to uphold the conviction of the accused/applicant for the offence under Section 3(B) of the Railway Property (Unlawful Possession) Act, 1966 and it is done so.

7. Resultantly, the revision fails and is hereby dismissed.

Sd/-
(Vimla Singh Kapoor)
JUDGE