

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 301 of 2010

Brijmohan S/o. Mulchand Agrawal, Aged about 40 years, R/o. In front of Saptddev Mandir, Main Road Korba, District Korba and T.P. Nagar Stadium road, Korba (CG)

---- **Applicant**

Versus

State of Chhattisgarh, Through Station House Officer, Kotwarli, District Korba (CG)

---- **Respondent**

For Applicant : Mr. Vivek Singhal, Advocate
For Respondent : Mr. Sameer Sharma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 05.03.2021

Case of the prosecution in brief is that ASI Grahman Singh Rathore (PW-2) received an information from the informer that the applicant was involved in speculation activities for the cricket match through mobile phones. On this, PW-2 constituted a team of police officials and raided the shop of the applicant where the applicant was present with number of mobile phones. At that time, the applicant was found betting for the cricket match to be played between Australia v. South Africa. On being searched, PW-2 found a cash Rs. 10,000/-, nine mobile sets, one tape recorder, one landline telephone instrument, one blue pen and two copies in which transactions were recorded in the name of Australia vs. South Africa. The applicant was taken into custody and on interrogation he informed him that he was in the said profession for last two years.

FIR (Ex.P-9) was registered against him for the offence punishable under 4A of the Public Gambling Act. After completion of investigation, charge sheet was filed against the applicant for the said offence.

2. By the judgment dated 26.01.2010 learned trial Court convicted the accused/applicant under Section 4A of the Public Gambling Act and imposed the sentence of SI for 1 month and to pay fine of Rs. 1000/- plus default stipulation. Learned Lower Appellate Court vide judgment impugned dated 02.07.2010 passed in Criminal Appeal No. 23/2010 modified the sentence to the extent of S.I. for 15 days and fine of Rs.1000/-, plus default stipulation. Hence this revision.

3. Counsel for the accused/applicant apart from vehemently arguing his case makes an alternative prayer that if his submissions do not yield any positive result on conviction part of the judgment impugned, keeping in mind the fact that the accused/applicant has already faced a lot for his misdeeds and remained inside for about 24 days, the sentence imposed on him may be reduced to the period already undergone.

4. State counsel however supports the judgment impugned and submits that the concurrent findings of fact recorded by both the Courts below being well grounded and well founded do not call for any disturbance in these revisions.

5. From the material available on record, it is apparent that the accused/applicant was caught red-handed while the applicant carrying on the speculation activities have been found in connection with the cricket match to be played between the

Australia vs. South Africa. From his evidence, it is also clear that during search, one colour TV, cash of Rs. 10,000/-, one tape recorder, one setup box, one stabilizer, one installation box, four mobile charger, one blue pen and two note books in which the different transactions were mentioned had been seized from the applicant under seizure memo under (Ex.P-4). Speculation slips were also seized under Ex.P-1 to Ex.P-3 from the applicant. No rebuttal has been made by the defence to falsely the case of the prosecution. Looking to the nature of business, it is established that there is necessary element of betting and said elements are necessary to prove that the applicant was found engaged in the foul playing gambling. The finding of conviction recorded by both the Courts below therefore, appears to be fully justified and is hereby maintained.

6. However, looking to the fact that the incident had taken place in the year 2009 and thereby more than 12 years have passed by, and further that the accused/applicant has already remained inside the jail about 6 days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone, so that his already settled family life is not landed to crises. Order accordingly.

7. Revision allowed in part.

Sd/-

(Vimla Singh Kapoor)

JUDGE