

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 205 of 2019

- Sumeet Kumar Sahu, S/o Chandra Shekhar Sahu, Aged About 28 Years, R/o Village Bohardih, Tahsil Patan, P. S. Utai, District- Durg, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through- The Police Station Ranchirai, District- Durg, Chhattisgarh. **---- Non-Applicant**

For Applicant : Shri Arham Siddiqui, Advocate

For State/Respondent : Shri Anand Verma, Dy. G.A.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

12.11.2021

- 1) Challenge in this revision filed under Section 397 read with 401 of CrPC is to the judgment dated 30.07.2012 passed by 6th Additional Sessions Judge, Durg, District- Durg (C.G.) in Sessions Trial No. 20/2012, whereby the applicant was acquitted of the charge under Section 397/398 of IPC by giving him benefit of doubt. The applicant by filing the present revision under Section 397/401 of CrPC is seeking modification of the said judgment by deleting the observation of the trial Court that the applicant is acquitted by giving him benefit of doubt and wants that the applicant be given clean acquittal.
- 2) As per the prosecution case, while complainant Dhanram and Sanni markam were going from Charama to Somni by Metador bearing registration no. CG-04-J-8460, after loading Kodha in it, three unknown persons intercepted the said vehicle by standing their motorcycle in front of the vehicle of the complainant and on the point of the knife looted total Rs. 8 thousand and one mobile phone as well as key of the Metador Vehicle. Thereafter all those three persons fled towards Dhamtari. During investigation the present applicant and co-accused Ramesh Kumar as also one juvenile were arrested and looted article were seized from their possession. After completing investigation charge-sheet was

filed against the accused persons under Section 392 of IPC whereas separate charge-sheet was filed against the juvenile before the Juvenile Justice Board, Durg. On charge under Section 397/398 of IPC being framed against the accused persons being denied for charge and prayed for trial. In fact the prosecution had cited total seven witnesses namely Dhanraj Markam, Sanni Markam, Mahendra, Subhash, A. K. Verma, Dharmanda Shukla and A.D. Deewan but examined only four witnesses as A. K. Verma had died and there being no necessity of examining witnesses Mahendra Ramteke, Subhash Ramteke, they were given up by the prosecution. In their 313 CrPC statements the accused persons denied the incriminating circumstance appearing against them, pleaded innocence and false implication. However, no witness was examined by them in their defence. The learned trial Court after considering the overall material available on record having found that the prosecution has not proved its case beyond reasonable doubt, acquitted the accused of the charge by giving them benefit of doubt.

- 3) Learned counsel for the applicant submits that despite there being no evidence at all proving the complicity of the applicant in the crime in question, the trial Court was not justified in recording the finding that the applicant is acquitted by extending him benefit of doubt and it ought to have given him a clean acquittal. The applicant is preparing for the government services and if the observation of the trial Court regarding acquittal of the applicant “by giving him benefit of doubt” is not omitted, it would adversely affect the future prospects of the applicant.
- 4) On the other hand, learned State counsel supports the impugned judgment.
- 5) Heard learned counsel for the parties.
- 6) In this case, as per prosecution, three unknown persons committed loot of Rs. 8 thousand and one mobile phone of Nokia company model 1650 but no identification parade was

conducted by the police. The complainant PW/1 Dhanraj Markam and PW/2 Sanni Markam have not identified the accused persons in the Court as perpetrator of the crime. Further, though it is alleged that the accused persons committed loot on the point of knife but no seizure of knife has been made nor any witness stated about the same in his deposition. PW/4 Dharmanand Shukla, A.S.I. has stated that during patrolling on 31.12.2008 he received secret information that three boys are standing at *Selud Manikchauri Tiraha* in motorcycle in suspicious condition and upon inquiry from one of them namely Dushyant Kumar, he disclosed that he alongwith his friend Sumeet Kumar Sahu (applicant) and Ramesh Chakradhari committed loot on 17.12.2008 by intercepting one truck and motorcyclist of one mobile phone and cash of Rs. 950/-. Thereafter, all the three suspects were arrested and their memorandum statements were recorded. In his memorandum statement applicant Sumeet Sahu admitted commission of loot. In cross-examination this witnesses states that mobile was seized from accused applicant on the basis of his memorandum. However, the memorandum statement of the accused persons has also not been proved by the prosecution. Even the identity of the mobile phone seized from the applicant Sumit has also not been proved. Thus, in the totality of facts and circumstance of the case, the nature and quality of the evidence aduced by the prosecution, the trial Court was justified in acquitting the applicant by giving him benefit of doubt.

- 7) In the result, the instant revision petition being without any substance is liable to be and is, accordingly, dismissed.

Sd/-

(Gautam Chourdiya)
Judge

Nadim