IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 827 of 2005
Jitendar Singh alias Mikal Khalko ….. Petitioner
Versus
The State of Jharkhand ….. Opposite Party
With
Cr. Revision No. 121 of 2005
Ranjeet Mahto ….. Petitioner
Versus
The State of Jharkhand ….. Opposite Party

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioners : Mr. B.K. Mishra, Advocate
For the State : Mr. V.S. Sahay, APP

06/ 06.07.2022 Heard learned counsel for the parties.

2. Both applications arise out of common judgment and are interconnected, as such same are heard together and disposed of by this common order.

3. Both these criminal revision applications are directed against the judgment dated 14th May, 2003, passed by learned Additional District & Sessions Judge, Lohardaga, whereby the Cr. Appeal No. 39 of 1998, preferred by the petitioners has been dismissed and the judgment of conviction and order of sentence dated 17th January, 1998 in S.T. No. 398 of 1993/ 5 of 1994, passed by the learned Assistant Sessions Judge, Lohardaga, whereby the petitioners were convicted and were sentenced to undergo rigorous imprisonment for seven years under Section 395 of the Indian Penal Code, has been affirmed.

4. The prosecution case in brief is based upon the fardbeyan of one Mohan Saw, for which Bhandra Police

registered a case against the petitioners under Sections 395 of the Indian Penal Code. After investigation, police has submitted chargesheet and cognizance has been taken against the petitioners; for which the petitioners pleaded not guilty and claimed to be tried. After trial, the petitioners were found guilty for the offences and they were convicted and their appeal was also rejected by the learned appellate court.

5. Mr. B.K. Mishra, learned counsel for the petitioner in both the matters fairly submits that the learned trial court has misdirected itself by convicting these petitioners only on the basis of TI parade but the facts remains that nothing has been recovered from the conscious possessions of either of the petitioner. He further submits that petitioners are not having any criminal antecedent and now they are living peaceful life as such some leniency may be granted by this court by converting the sentence in lieu of fine.

6. Learned counsel for the State supported the judgment and submits that there is no error in the findings given by the Courts below. As such, the conviction cannot be set aside but the sentence may be modified in lieu of fine.

7. Having heard the learned counsel for the parties and after going through the impugned judgments including the lower courts records and keeping in mind the limited submissions of the learned counsel for the parties and also the scope of revisional

jurisdiction, I am not inclined to interfere with the finding of the courts below and as such the judgment of conviction passed by the learned trial court and upheld by the learned appellate court is, hereby sustained.

8. So far as sentence is concerned, it is apparent from record that the incident is of the year 1993 and more than 28 years have elapsed and the petitioners must have suffered the rigors of litigation for all these years. Further, petitioner-Jitendar Singh alias Mikal Khalko (in cr. Rev. No.827/2005) remained in custody for about 891 days and petitioner-Ranjeet Mahto (in cr. Rev. No.121/2005) remained in custody for about 891 days and during entire period of bail they never misused the privilege of bail.

9. In a situation of this nature, I am of the opinion that no fruitful purpose would be served by sending the petitioners back to prison and interest of justice would be sufficed by modifying the sentence in lieu of fine.

10. Thus, the sentence passed by the trial court and upheld by the appellate court is hereby modified to the extent that the petitioners are sentenced to undergo for the period already undergone subject to payment of fine of Rs.5,000/- each. The amount shall be deposited before the Secretary D.L.S.A, Lohardaga within four months from today.

11. With the aforesaid observation, direction and

modification in sentence only, these criminal revision applications stand disposed of.

12. The petitioners shall be discharged from the liability of their bail bonds, subject to payment of fine of Rs.5,000/- each.

13. Let the copy of this order be communicated to the court below, Secretary DLSA, Lohardaga and the petitioners through officer-in-charge of concerned police station.

14. Let the lower court records be sent back to the court concerned forthwith.

(Deepak Roshan, J.)

Pramanik/