**IN THE HIGH COURT OF JHARKHAND AT RANCHI**
**Cr. Revision No. 1247 of 2017**
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1. Md. Israful Ansari, S/o. Md. Shariff Ansari, residenct of village- Lejang, P.O. & P.S.- Balumath, Dist.- Latehar.
2. Md. Nasir Ansari, S/o. Shakir Ansari, resident of Village- Brahmani, P.O. & P.S.- Chandwa, Dist.- Latehar, Jharkhand.

... ... Petitioners

**Versus**

The State of Jharkhand …… Opp. Party

With

**Cr. Revision No. 1512 of 2017**
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Israfil Ansari, S/o. Ahmad Mian, resident of village- Huchlu (Icchak), P.O. & P.S.- Chandwa, Dist.- Latehar.

... ... Petitioner

**Versus**

The State of Jharkhand …… Opp. Party

**CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**
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For the Petitioners : Mr. Aman Ali, Advocate
: Md. Zaid Ahmed, Advocate
(In Cr. Rev. No. 1247 of 2017)
: Mr. Ashish Kumar Sinha, Advocate
(In Cr. Rev. No. 1512 of 2017)
For the State : Mrs. Vandana Bharti, A.P.P.
(In Cr. Rev. No. 1247 of 2017)
: Mr. Manoj Kr. Mishra, A.P.P.
(In Cr. Rev. No. 1512 of 2017)

**Judgment**

**C.A.V. On: 15th September, 2026** **Pronounced On: 06/11/2026**

1. Both these criminal revisions arise out of the common Judgment. Accordingly, these revisions are being heard together and disposed of by a common order.

2. Heard learned counsels appearing for the petitioners as well as learned A.P.P. in both cases.

3. Instant criminal revisions are directed against the judgment passed by learned District & 3rd Additional Sessions Judge, Latehar in Criminal Appeal No. 04/2017 & Criminal Appeal No. 05 of 2017 dated 17th July, 2017, whereby and whereunder, the learned Appellate Court has upheld the judgment of conviction and reduced the sentence of the petitioners to the extent of R.I. for 2 years alongwith the fine of Rs. 5,000/- each with default stipulation for the offence under Section 3(a) of the R.P.(U.P.) Act passed by learned Trial Court in R.P. Case No. 41 of 2007 arising out of RPF/Post/Patratu Case No. 27 of 2007, whereby, the petitioners were held guilty for the aforesaid offence and sentenced to undergo R.I. for three years alongwith the fine of Rs. 10,000/- with default stipulation.

**Factual Matrix:-**

4. Factual matrix giving rise to these revisions is that on 25.05.2007 at about 7 P.M., the complainant S.I. Vinod Kumar Bishwakarma (PW-3) received confidential information that some miscreants are planning to sell the railway property which is lying between Chetar and Richugota railway station. On which, a raid team was constituted and the complainant alongwith the raiding team on 26.05.2007 proceeded for raiding the place of occurrence and reached there at 5:00 A.M. It is alleged that raiding team saw 10-12 miscreants were collecting heavy article of railway in the southern side. The team chased them and succeeded in apprehending two miscreants from 20 meter north K.M. No. 196/22-20 and rest of the miscreants fled away taking benefits of bushes and hills. Upon search of the apprehended miscreants, 28 nos. of half divided wheel of railway wagon, 7 nos. of Axel, one ton iron article and other articles were recovered. On

demand of document with regard to these railway properties, the miscreants could not show the documents to the raiding team. The apprehended miscreants disclosed their name as Md. Israful Ansari (petitioner no. 1) and Md. Nasir Ansari (petitioner no. 2) of Cr. Revision No. 1247 of 2017 respectively. They further disclosed that they were called by Israfil Ansari to transport these iron scraps. The seizure of the articles were prepared and taken to the Tori post.

On the basis of above, complaint RPF/Post/Patratu Case No. 27 of 2007 was registered on 26.05.2007 for the offence under Section 3 of the R.P.(U.P.) Act against the above named petitioners and one co-accused.

5. After completion of enquiry, the enquiry officer finding the prima facie case to be true against the petitioners filed the prosecution report under Section 3 of the R.P.(U.P.) Act and the learned Trial Court took cognizance under Section 3 of the R.P.(U.P.) Act and charges were framed, to which, they pleaded not guilty and claimed to be tried.

6. In the course of trial, prosecution has examined altogether 06 witnesses, which are as under:-

1) PW-1: Vijay Kumar Shaha
2) PW-2: Netaji Subhash
3) PW-3: Vinod Kumar Bishwakarma (Complainant)
4) PW-4: Sunil Kumar (Inquiry Officer)
5) PW-5: Shesh Nath Singh
6) PW-6: Kamal Singh

7. Apart from oral testimony of the witnesses, following documentary and material evidences have also been adduced on

behalf of the prosecution:-

i) Ext.-1: Seizure List.

ii) Ext.-2: Expert Opinion.

iii) Ext.-3: Complaint Petition.

iv) Ext.-4: Confessional statement of accused Md. Israful Ansari.

v) Ext.-4/1: Confessional statement of accused Md. Nasir Ansari.

vi) Ext.-5: Theft report.

vii) Ext.-6: Enquiry-cum-Prosecution report.

viii) Ext.-7: Registration Mark.

ix) Ext.-8: Map of the Place of occurrence.

x) Ext.-9: Signature on seizure list.

**Material Exhibit:-**

xi) Mat. Ext.-1: Seized Sample pasted with labels.

8. On the other hand, defence has not adduced any oral or documentary evidence.

9. The learned Trial Court after scrutinizing the evidence of the prosecution, held the petitioners guilty for the offence under Section 3(a) of the R.P.(U.P.) Act and sentence them accordingly as stated above.

10. Against the judgment of conviction and sentence, the petitioners, namely, Md. Israful Ansari & Md. Nasir Ansari preferred an appeal being Cr. Appeal No. 04 of 2017, while petitioner Israfil Asnari preferred an appeal being Cr. Appeal No. 05 of 2017, which were decided by the learned District & 3rd Additional Sessions Judge, Latehar, whereby, the learned Appellate Court also upheld the judgment of conviction passed by the learned Trial Court and reduced

the sentenced of the petitioners as stated above, which has been assailed in this revision.

**Submission on behalf of the Petitioners:-**

11. Learned counsel for the petitioners assailing the impugned judgment has submitted that the learned Trial Court as well as learned Appellate Court have not taken into consideration, that no independent witness has been examined by the prosecution in support of this case. There is no independent witness either in relation to the arrest of these petitioners at the place of occurrence or in relation to seizure of the alleged railway property. It is further submitted that learned Trial Court as well as the learned Appellate Court have not taken into consideration that conviction cannot be upheld only on the basis of evidence of member of raiding team, who are highly interest witnesses.

So far, petitioner Israfil Ansari (in Cr. Rev. No. 1512 of 2017) is concerned, the learned Trial Court as well as the learned Appellate Court have not considered that this petitioner was neither apprehended at the spot nor any incriminating article was recovered from his possession. It is also submitted that only on the basis of confessional statement of co-accused persons, who were apprehended at the spot, this petitioner has been implicated. There is no evidence against this petitioner to prove his guilt since the confessional statement of co-accused is not a legal evidence in the eye of law and judgment of conviction and sentence passed against this petitioner is no sustainable. Therefore, the impugned judgment of conviction and sentence of the petitioners passed by the learned Trial Court and

upheld by the learned Appellate Court may be set aside and these revisions may be allowed.

**Submission on behalf of the State:-**

12. On the other hand learned counsels for the State have defended the impugned judgment of conviction and sentence of the petitioners on merits and have jointly submitted that there are concurrent findings of illegal possession of railway's properties. Therefore, there is no reason to interfere in the impugned judgment passed by the learned Trial Court as well as learned Appellate Court. These revisions are devoid of merits and fit to be dismissed.

**Analysis, discussion and reasons:-**

13. I have gone through the impugned judgments passed by the learned Trial Court as well as learned Appellate Court in the light of contentions raised on behalf of both the parties.

14. It appears that the prosecution has examined altogether 06 witnesses on his behalf.

**PW-3 Vinod Kumar Bishwakarma** is the complainant of this case. He has stated that on 25.05.2007, he received confidential information with regard to transportation of stolen railway property by the miscreant, upon which, he alongwith raiding team, raided the place of occurrence near KM No. 196/20 on 26.05.2007 and witnessed that some miscreants were shifting heavy articles from south side to north side crossing railway track. The raiding team chased the miscreants and apprehended two persons at 6:30 A.M. The names of the apprehended miscreants were Md. Israful Ansari and Md. Nasir Ansari. The team also identified two miscreants, namely, Babulal Oraon and Israfil (present petitioner in Cr. Rev. No. 1512 of

2017) and the apprehended miscreants also confirmed of identifying it. This witness has further stated that they found 28 nos. of half divided wheel of railway wagon, 7 nos. of Axel, one ton of iron article, two numbers of iron rod, 4 numbers of bamboo balli and ropes. On query about these articles, the apprehended miscreants could not answer satisfactorily rather admitted these are railway property. He prepared seizure list on direction by in-charge S.N. Singh and proved the seizure list, which is marked as Ext.-1. He has also proved written complaint, marked as Ext.-3, confessional statement of apprehended miscreants marked as Ext.- 4 & Ext.- 4/1.

In his cross-examination, this witness has stated that he reached at the place of occurrence via train and jeep. He has further admitted that there was no any vehicle standing at the place of occurrence.

**PW-5 Shesh Nath Singh** is the leader of raiding party as well as 1st inquiry officer of the case. This witness has also corroborated the fact regarding raid, arrest of the miscreants and recovery of railway property. He has also proved his signature on the seizure list. He has also proved the registration mark on the complaint marked as Ext.-7. He has further stated that confessional statement of the arrested miscreants were recorded by Vinod Kr. Vishwakarma (PW-3) at his direction. He also visited the place of occurrence with V. K. Saha (PW-1) and prepared a map of the place of occurrence at his instance. He has proved the map prepared by him, which is marked as Ext.-8. Thereafter, he took the statement of witness and in the meantime, he was transferred from the post. He handed over the charge of investigation to Sunil Kumar (PW-4).

In his cross-examination, he has produced the sample of the

seized article which is a part of trolley having label pasted on it bearing signature of V. K. Vishwakarma, S.I. V. K. Saha, Expert J.E. and signature of the apprehended miscreants, which is marked as Material Ext.-1.

**PW-4 Sunil Kumar** is the 2nd inquiry officer of this case. The case was handed over to him on 10.01.2008. He first inspected the place of occurrence. During inquiry he received theft report from J.E (C&W), which is marked as Ext.- 5 and Ext.-5/1. Thereafter, he tried to apprehend the absconded miscreants. He has further proved the inquiry-cum-prosecution report, which is marked as Ext.-6.

In his cross-examination, nothing specific has been elicited by the defence and this witness admits that he has visited the place of occurrence.

**PW-1 Bijay Kumar Saha** happens to be one of the members of the raiding team. He has supported the statement of the complainant and proved his signature on the seizure list.

**PW-2 Netaji Subhash** is an expert. He has stated that on 11.06.2008, he was posted at Barwadih station as Junior Engineer (C&W) Department. On that day, he had gone to Tori outpost on the message of RPF inspector Sunil Kumar (PW-4), where he was shown 14 wheels each cut into two pieces in total 28 pieces, 7 axel and trolleys divided into several pieces weighing about one ton. Accordingly, he inspected the articles and found to be of railway not to be sold in open market and also useless. He has proved the expert opinion, which is marked as Ext.-2. He has also signed over the label pasted on the articles.

**PW-6 Kamal Singh** is also a member of raiding team. He has

also reiterated the same version as PW-3 Vinod Kumar Vishwakarma and other witnesses. He has proved his signature on the seizure list, which is marked as Ext.-9.

15. On the other hand, defence has neither examined any witness nor any documentary evidence.

16. It appears from the evidence available on record that the petitioners were apprehended possessing with the railway property i.e. wheel of the railway, 7 nos. of Axel, one ton of iron article, two numbers of iron rod, 4 numbers of bamboo balli and ropes, which have been duly proved by the prosecution witnesses beyond reasonable doubt. Ext-2, is the expert opinion, which has been proved by PW-2 Netaji Subhash, which has clearly established that the seized articles were of railway property and the same are not available in open market. It is clear that the seized articles which were recovered from the conscious possession of the petitioners was exclusively property of Indian Railway and that was unlawfully obtained by the accused persons. The apprehended accused also offered no reason or explanation with regard to possession of railway property. Therefore, conviction of the petitioners, namely, Md. Israful Ansari and Md. Nasir Ansari (petitioner no. 1 and petitioner no. 2 in Cr. Rev. No. 1247 of 2017) for the offence under Section 3(a) of the R.P.(U.P.) Act is hereby **upheld.**

17. Accordingly, Cr. Revision No. 1247 of 2017 is **dismissed.**

18. Pending I.A. (s), if any, stands disposed of.

19. **Petitioners, namely, Md. Israful Ansari and Md. Nasir Ansari (petitioner no. 1 and petitioner no. 2 in Cr. Rev. No. 1247 of 2017) are on bail. As such, their respective bail bonds are**

**cancelled. They are directed to surrender before the concerned Trial Court within a period of two months from the date of this judgment and serve the remaining sentence awarded by the learned Appellate Court. The sentence already undergone by them will be set off.**

20. So far petitioner Israfil Ansari (in Cr. Rev. No. 1512 of 2017) is concerned, his name in the alleged occurrence has come only on the basis of identification by raiding team and on confession of accused Md. Israful Ansari and Md. Nasir Ansari. Police has not recovered any articles related to railway property from possession of petitioner Israfil Ansari. Therefore, impugned judgment of conviction and sentence passed by the learned Trial Court and upheld by the learned Appellate Court is hereby set aside.

21. Accordingly, Cr. Revision No. 1512 of 2017 is **allowed.**

22. Pending I.A.(s), if any, stands disposed of.

23. Petitioner, Israfil Ansari is on bail. As such, he is discharged from the liability of bail bond and sureties are also discharged.

24. Let a copy of this judgment alongwith the trial court records be sent back immediately to the concerned Court for information and needful.

**(Pradeep Kumar Srivastava, J.)**

***High Court of Jharkhand at Ranchi***
***Dated: 06/11/2026***
*Rahul/NAFR*
Uploaded on: 06/11/2026