

(2019) 02 CHH CK 0451

Chhattisgarh High Court

Case No: Criminal Revision No. 443 Of 2004

Chaituram Sahu

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision: Feb. 25, 2019

Acts Referred:

- Indian Penal Code, 1860 - Section 379

Hon'ble Judges: Vimla Singh Kapoor, J

Bench: Single Bench

Advocate: M.K. Bhaduri, Gary Mukhopadhyay

Final Decision: Allowed

Judgement

Vimla Singh Kapoor, J

1. On 03.09.2001 FIR (Ex.P-5) was lodged in Police Station Chhakarbhata, by D. Mukherjee (PW-5), Junior Engineer, Chhattisgarh State Electricity

Board, Sakri, alleging that 840 meters aluminium wire worth of Rs. 6600/- was theft by unknown person. On suspicion, the applicant was arrested and

on the memorandum statement of the applicant stolen aluminum wire was seized from him. After completion of investigation, charge sheet was filed

against the applicant under Section 379 IPC and charge sheet was framed accordingly.

2. By the judgment dated 07.02.2003 learned trial Court convicted the accused/applicant under Section 379 IPC and imposed the sentence of RI for six months. In appeal, the conviction recorded by the trial Court has been affirmed. Hence, this revision.

3. Counsel for the applicant submits that the Courts below have committed an error in convicting and sentencing the accused/applicant as mentioned

above though the evidence led by the prosecution was lacking and therefore, the same may be set aside. He further submits that the seizure witnesses

have not fully supported the case of the prosecution case, hence benefit of doubt should have given in favour of the accused.

4. State counsel, however, supports the judgment impugned.

5. Having heard counsel for the parties and perused the material available on record including the evidence of PW-3, who proved the FIR (Ex.P-5)

and his written application vide ExP-3. From the evidence of PW-5, it is clear that the wire so seized did not belong to the department of Telephone

Department. His evidence is also makes it clear that the official of the CSEB have clearly owned the said wire to be their own. Thus, the statement of

all these witnesses are quite consistent and therefore there is no reason to disbelieve or discard the same. In this view of the matter, both the Courts

below appear to have been fully justified in holding the accused/applicant guilty under Section 379 IPC and therefore, no infirmity or illegality is visible

in the judgment under assail.

6. However, looking to the fact that the incident had taken place in the year 2001 and thereby more than 18 years have passed by, and further that the

accused/applicant has already remained inside for more than 15 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.