Anna Kumar Markam Vs State Of Chhattisgarh

Court: Chhattisgarh High Court

Date of Decision: Feb. 26, 2021

Acts Referred: Wild Life Protection Act, 1972 â€" Section 51, 51(1), 52

Hon'ble Judges: Vimla Singh Kapoor, J

Bench: Single Bench

Advocate: Rakesh Kumar Manikpuri, Akash Agrawal, Sandeep Shrivastava, Ishwar Jaiswal

Final Decision: Allowed

Judgement

Vimla Singh Kapoor,J

1. On 11.09.2009 Sub Inspector Anju Chelak (PW-3) received a secrete information that in the Mansuli Bazar someone was involved in the sale of

the hide of a wild animal. Acting thereupon, a team of Constables and Head Constables was constituted and eventually the accused/applicant was

found in possession of the hide of barking deer at the place so informed. Panchnama (Ex.P-1) was drawn and under Ex.P-2 the seizure of four pieces

of the hide of barking deer, locally known as Kotri was made under Ex.P-2 in presence of the witnesses PW-1 and PW-2 on the spot. After getting

back to the police station FIR (Ex.P-5) was registered against the accused/applicant for the offences under Sections 51 and 52 of the Wild Life

Protection Act, 1972.

2. Learned Magistrate vide judgment dated 13.04.2010 acquitted the accused/applicant of the charge under Section 52 but at the same time found him

guilty under Section 51 (1) of the Wild Life Protection Act and imposed the sentence of RI for 2 years with fine of Rs.10,000/-, plus default

stipulation. Learned lower appellate Court vide judgment impugned dated 03.07.2010 passed in Criminal Appeal No.07/2010 affirmed the findings

recorded by learned Magistrate as a whole. Hence this revision.

3. Counsel for the accused/applicant submits that the witnesses to seizure being PW-1 and PW-2 have not supported the case of the prosecution and

the finding of conviction is based on the evidence of the police people being PW-3 and PW-4 which is bad in the eye of law. He submits that no

independent witnesses have been examined by the prosecution to establish the guilt of the accused/applicant, and the two examined to support the

seizure have also been declared hostile.

4. State counsel however supports the judgment impugned and submits that the defence has not brought anything on record on the basis of which the

evidence of PW-3 and PW-4 gets falsified. He submits that there is no legal bar to convict the accused merely on the basis of the police people if

there appears to be no infirmity in their testimony.

5. Though PW-1 and PW-2 Ã¢â‚¬" the witnesses to seizure of the hide of barking deer have not supported the case of the prosecution yet the testimony

of PW-3 is suggestive of the fact that the hide of barking deer kept in possession of the accused/applicant in a white colour bag was seized from him

under Ex.P-2. The measurement and weighment proceedings of those pieces of barking deer hide were also made by this witness on the spot. The

total worth of the articles seized from the possession of the applicant has been assessed at Rs.60,000/-. Furthermore, the evidence of PW-4 is also

indicative of the fact that the four pieces of barking deer hide were produced before him for examination and on that being done it was found that

those barking deer were killed by gunshot injuries as the marks of gunshot were very much present on those articles. His examination report is Ex.P-

8. The accused/applicant has not disputed the seizure of the barking deer hide by examining any independent witnesses and therefore, there is no

reason for this Court to discard the testimony of PW-3 and PW-4 just because they happened to be the people of police and forest department. This

apart, the accused/applicant did not point out any animosity or ill will with PW-3 and PW-4 which might have prompted them to speak the things

against him. The unrebutted evidence collected by the prosecution appears to be quite enough for holding the accused guilty under Section 51 of the

Wild Life Protection Act, and for that both the Courts below have been fully justified in so doing. No illegality or infirmity in the concurrent findings

recorded by both the Courts below strikes the judicial mind of this Court to make any interference with the same particularly as far as conviction of

the accused/applicant is concerned. Conviction is therefore, held to be just and proper and maintained as such.

6. As regards sentence, this Court is of the considered opinion that there would be no harm to anyone in reducing the substantive sentence of the

accused/applicant to the period already undergone which in this case comes to about 10 months. Accordingly, it is held so. The sentence imposed on

the accused/applicant is reduced to the period already undergone. The sentence of fine shall however remain as it is.

7. Revision is thus allowed in part.