

(1978) 03 RAJ CK 0009

In the Rajasthan High Court

Case No : Criminal Jail Revision No. 276 of 1977

Arjun Deo

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 22-03-1978

Acts Referred:

Penal Code, 1860 (IPC) — Section 392

Citation : (1978) WLN 76

Hon'ble Judges : R.L. Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.L. Gupta, J.—The petitioner Arjun Deo has preferred this revision through jail. The petitioner along with oneco accused Ramesh Kumar was convicted for the offence u/s 392 IPC and sentenced to undergo 2 years rigorous imprisonment and a fine of Rs. 2,000/-, in default of the payment of fine to undergo rigorous imprisonment for further period of six months, by the Judicial Magistrate (Railway), Jodhpur vide his judgment dated 23.3.1977. His co-accused Ramesh Kumar was also accordingly convicted and sentenced. The petitioner Arjun Deo preferred an appeal before the Sessions Judge, Jodhpur, which, on transfer, was heard by the Additional Sessions Judge No. 1, Jodhpur. The appeal preferred by the petitioner was dismissed by the learned Additional Sessions Judge vide his judgment dated 25.10.1977. Aggrieved by his conviction and sentence as aforesaid, the petitioner has preferred this revision.

2. I have perused the record of the cast and also heard the learned public prosecutor.

3. In brief, the prosecution case is that en 31.1.1975 Kishan Lal PW. 6, his wife Smt. Kamla Devi and their son Arjun Kumar PW. 5 case travelling 96 Dn. train from Mar war Junction. At the railway station Pali the petitioner and his companion Ramesh Kumar boarded the train in that compartment in which the

above named witnesses were also travelling. When the train started from the Bhagatkikothi railway station, the petitioner and his companion Ramesh Kumar threatened the above named witnesses at the pistol and knife point and asked them to hand over whatever they have. They robbed Mst. Kamla of her golden bangles, necklace and cash of Rs. 75/- and climbed down the train and ran away. Kishan Lal lodged the report at the railway police station, Jodhpur on 31.1.1975. Subsequently on 17.2.1975 the petitioner and his companion Ramesh Kumar were arrested in connection with some other criminal case at the Marwar Junction. While the petitioner was in police custody he furnished certain information regarding the robbery that took place on 31.1.1975 near the railway station, Bhagat-ki-kothi. He was brought to Jodhpur and he furnished the information that two bangles out of the bangles robbed from Mst. Kamla he has sold to one Ram Parkash Sanar resident of Jhunjhar District Rohtak and he could get them recovered. This information was reduced into writing which is Ex. P.2 and at the instance of the petitioner the police party went at the residence of Ram Parkash PW. 1 on 22.2.1975. Ram Parkash admitted that the petitioner has sold him two bangles but he has melted them and he produced the gold Dali thereof which was taken into custody by the police vide Ex. P.1. He also informed that the other two bangles and one locket he has concealed in a box in his residence. The petitioner was taken to his "Dhani" and from his house, at his instance, the gold bangles and the locket were recovered. The petitioner and the co-accused were put to identification parade and they were correctly identified. The articles which were robbed from the person of Mst. Kamla were also correctly identified. After necessary investigation the petitioner and his companion Ramesh Kumar were put to trial u/s 392 IPC The Railway Magistrate, Jodhpur, after trial, convicted and sentenced the petitioner and his companion Ram Kumar as aforesaid. Their appeal before the Additional Sessions Judge was also dismissed.

4. From the perusal of the record and the evidence of the prosecution witnesses it can be said that there is sufficient evidence against the petitioner to connect him with the crime, i.e. the incident that took place in the train on 31.1.75. The articles which were robbed from the person of Mst. Kamla were recovered at the instance of the petitioner. There is no reason to disbelieve the testimony of the prosecution witnesses particularly Smt. Kamla, Kishanlal and Arjun Kumar. The petitioner and his companion committed this robbery at the pistol and knife point in the running train. The prosecution has fully established the guilt of the petitioner beyond reasonable doubt.

5. As regards the sentence it cannot be said that it is excessive looking to the facts and circumstances of the case. The petitioner has been sentenced to undergo rigorous imprisonment for two years and a fine of Rs. 2000/- in default of the payment of fine to undergo rigorous imprisonment for a further period of six months. This is not excessive in the circumstances of the case. The revision has no force and is liable to be dismissed.

6. The result is that the revision fails and is dismissed. Inform the petitioner

accordingly.