
(2020) 01 JH CK 0269

In the Jharkhand High Court

Case No : Criminal Revision No. 243 Of 2014

Ghanshyam Gagrai And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 18-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 380, 457, 511

Citation : (2020) 01 JH CK 0269

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Rukmini Kumari, Ashok Kr. Sinha, Arun Kr. Pandey

Final Decision : Disposed Of

Judgement

The instant application is directed against the judgment dated 20.12.2013, passed by the learned Additional Sessions Judge-II, West Singhbhum at Chaibasa in Criminal Appeal No.56/2011, whereby the appeal preferred by the petitioners has been dismissed and the judgment of conviction and order of sentence dated 26.11.2011, passed by the learned SDJM, Porahat, Chaibasa in G.R. No.267/2008, whereby both the petitioners were convicted under Sections 457 and 380/511 of the Indian Penal Code and were sentenced to undergo RI for one year with fine of Rs.500/- for each offences, has been affirmed.

The learned counsel for the petitioners vehemently argued that there are material contradictions in the deposition of prosecution witnesses. On the one hand, P.W.1 deposed that the petitioners after the occurrence left the place after hearing noise of other people, whereas, P.W 3, who is informant of this case has categorically stated that the petitioners were caught on the spot. It has been further submitted by the learned counsel for the petitioners that the informant is sole eye witness and when there is contradiction in the deposition of the witnesses, his deposition should not be taken care of and both the petitioners deserves to be acquitted.

The alternative argument of the learned counsel for the petitioners is that both the petitioners are villagers and there is no criminal antecedent against them and this is a single case in which they have been convicted as such, some leniency may be granted by this Court.

Per contra, the learned APP opposed the prayer of the petitioners and contended that the statement of the informant P.W. 3 has been totally corroborated by the I.O of this case, as such minor contradictions among the prosecution witnesses will not prejudice the prosecution itself. However, he does not dispute the fact that there is no criminal antecedent of the petitioners and both the petitioners remained in custody for about more than 3 months.

Heard learned counsel for the petitioners and the learned APP for the State.

After going through the impugned orders including lower court records and keeping in mind the submissions of the learned counsel for the petitioners and also the scope of the revision 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, confirmed.

However, so far as sentence is concerned, it is apparent from record that the incident is of the year 2008 and about 12 years have elapsed and the petitioners must have suffered the rigors of litigation for the last 12 years and the petitioner No.1 remained in custody for 93 days and the petitioner No.2 remained in custody for 114 days. It is not stated that the petitioners have ever misused the privilege of bail. Further, the incident does not reflect any cruelty on the part of the petitioners or any mental depravity.

In a situation of this nature, I am of the opinion that no fruitful purpose would be served by sending the accused persons back to prison rather interest of justice would be sufficed if the sentence is modified in lieu of fine.

Thus, the sentence passed by the Court below is, hereby, modified to the extent that the petitioners are sentenced to undergo for the period already undergone subject to the payment of fine of Rs.2,500/- each.

It is made clear that the petitioners shall pay the aforesaid fine of Rs. 2,500/- each within a period of 3 months from today before the learned Secretary, DLSA, West Singhbhum at Chaibasa.

With the aforesaid observations, directions and modification in sentence, this revision application is disposed of.

The petitioners shall be discharged from the liability of their bail bonds, subject to fulfillment of aforesaid condition.

Let the lower court record be sent back to the court concerned forthwith.

Let the copy of this order be communicated to the court below and the Secretary,

DLSA, West Singhbhum at Chaibasa.