
(2019) 05 JH CK 0002
In the Jharkhand High Court
Case No : Criminal Revision No. 61 Of 2013

Kalimuddin Ansari @ Jabbir Ansari And Ors	APPELLANT
Vs	
State Of Jharkhand	RESPONDENT

Date of Decision : 03-05-2019

Acts Referred:

Indian Penal Code, 1860 — Section 394, 411

Citation : (2019) 05 JH CK 0002

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Aashish Kumar

Final Decision : Dismissed

Judgement

1. The instant application is directed against the judgment dated 11.01.2013, passed in Criminal Appeal No.119 of 2012 passed by the learned District and Additional Sessions Judge-I, Godda, whereby the learned appellate court has affirmed the judgment of conviction and order of sentence, both dated 31.08.2012 passed in G.R. No.357 of 2011/T.R. No.388 of 2012 whereby the learned Judicial Magistrate 1st Class, Godda has directed the petitioners to undergo rigorous imprisonment for 3 years each for offence punishable under Section 394 I.P.C and fine of Rs.5,000/- each and further directed to undergo R.I for 3 years for offence punishable under Section 411 IPC and a fine of Rs.5,000/- each and in default of payment of fine petitioners were directed to undergo S.I for one month each and all the sentences were directed to run concurrently.

2. The prosecution case is based upon the fardbeyan of Mukesh Saren, recorded by S.I N.P. Singh, O/c Lalmatia Police Station on 01.04.2011 at P.S at 00.30 Hrs, alleging interalia as follows:

(I) It is stated by the informant that he alongwith his lover Santi Murmu and his friend Arbind Kisku, was coming from Boarjore Hatia in the night of 31.03.2011 by his motorcycle No.JH-04D-8142 and at 8:00 P.M as they reached near a pond

situated in between Basdiha and Lohandia, all off a sudden four criminals pulled a rope across the Road as a result of which they fell down and the miscreants looted the articles from the possession of riders on the point of pistol. The criminal dragged them towards rivlet. Two criminals took away the motorcycle of informant and fled away and rest two criminals stand there with revolver. After some time the rest two Criminals also fled away by another motorcycle which was kept behind a Mahua tree. The miscreants robbed the mobile phone of Lephone Company, two sims bearing No.8804347242 and 8873869488. They also snatched Black coloured leather purse, identity card and cash of Rs.150/- from possession of the informant. The informant has described full description of the miscreants and he has claimed that after looking he will identify the criminals.

On the aforesaid fardbeyan of Boarijore (Lalmatiya) P.S. Case No.27 of 2011, dated 01.04.2011 under Section 394/411 was instituted. Cognizance of offence under Section 394/411 of IPC was taken against all the accused persons.

3. The witnesses were examined after framing of charge and the learned trial court convicted all the petitioners for the offence, punishable under Sections 394/411 of the Indian Penal Code and passed the order of sentence, R.I for 3 years each for causing offence, punishable under Section 394 IPC and fine of Rs. 5,000/- each of them. The learned trial court also sentenced the petitioners with R.I for 3 years each causing offence, punishable under section 411 IPC and fine of Rs.5,000/- each.

4. Being aggrieved by the order, the petitioners challenged the same before the appellate court and appellate court has confirmed the order of conviction and order of sentence by observing that the antecedent of the petitioners are criminal in nature and these convicts are indulged in various crime.

5. At the very outset, the learned counsel appearing on behalf of the petitioners, clearly confined his argument in respect of sentence only and it has been submitted that the petitioners were identified in Test Identification Parade and since then they are in custody and remained till the order of conviction i.e. on 01.04.2011. Even thereafter they remained in custody. They have been granted bail only on 31.01.2013 and as such they have remained in custody for almost 2 years. He further submitted that even on merit, the learned appellate court should have appreciated that the prosecution has not proved their case beyond all shadows of reasonable doubts.

6. Perused the lower court records. After scrutinizing the documents available on record it transpires that the fact has been well proved by the prosecution in this case that the above name petitioners namely, Kalimuddin Ansari, Mihir Mandal, Mobin Ansari and Umar Ansari had looted mobile and purse of the informant, his friend and lover and on the basis of the confessional statement of the above named accused persons the articles looted has also been recovered from the possession of the petitioners. They have also been identified by the informant Mukesh Soren and Arbind Kisuku in the T.I.P conducted before the Magistrate.

7. There appears no doubt in the conclusion that the materials seized were of the informant and the prosecution has proved its case beyond all reasonable doubts and as such, I find that the trial court has rightly convicted the petitioners for the offence which has been confirmed by the Appellate court and the same does not require any interference.

8. So far as sentence is concerned, it is apparent that the petitioners remained in custody for more than one and half years. This case is pending since 2011 and the petitioners have certainly suffered much and also remained in custody. In this way, I find that it is expedient in the interest of justice that the sentence already undergone will suffice for the ends of justice.

9. In view of the aforesaid discussions 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. It appears from the record of this case that the petitioners have already availed the privilege of bail as per order dated 31.01.2013 and as such, they are discharged from the liability of the bail bonds.

10. With the above modification in sentence only, this criminal revision application is dismissed.

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