
(2013) 12 MP CK 0101

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 1390 of 1999

Mishri Lal and Another

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 03-12-2013

Acts Referred:

Citation : (2013) 12 MP CK 0101

Hon'ble Judges : N.K. Gupta, J

Bench : Single Bench

Advocate : Rajendra Raghuwanshi, for the Appellant; S.K. Kashyap, Public Prosecutor, for the Respondent

Judgement

N.K. Gupta, J.—The applicants have preferred the present revision against the judgment dated 23.8.1999 passed by the learned Additional Sessions Judge, Burhanpur in criminal appeal No. 75/1999, whereby the judgment dated 2.8.1999 passed by the learned JMFC, Burhanpur in criminal case No. 158/1999 was considered and modified. The conviction of the applicants was converted from offence punishable u/s 380 of IPC to section 411 of IPC and each sentenced for 3 years rigorous imprisonment with fine of Rs. 2,000/-. The prosecution's case, in short, is that, on 5.12.1997, the complainant Bhupendra Singh who was posted as Ranger at Nepanagar, went to the State Bank of India, Burhanpur branch to get a sum of Rs. 1,48,000/- as salary of various employees. When he was getting some documents photocopied in a shop before the Court at Burhanpur, some children came into the shop and they snatched the bag of the complainant containing that much amount. Out of 4 accused persons, Akash and Manoj were arrested but, they were sent to the Juvenile Court. However, Prem and Rajesh Chourasiya could not be traced. The applicants were arrested and on the information given by Mishrilal a sum of Rs. 2,000/- was recovered from the applicant Lahodi Bai. The seized amount was in two packets of notes having denomination of Rs. 10/-. The packets were duly sealed by State Bank of India, Burhanpur branch.

2. The learned JMFC after considering the evidence adduced before him, convicted the applicants for offence punishable under sections 380/34 and 411 of IPC and sentenced them for 3 years rigorous imprisonment with fine of Rs. 2,000/- for each count.

3. I have heard the learned counsel for the parties.

4. After considering the statements of the victim Bhupendra Singh and other witnesses and officers who seized the stolen property, it would be apparent that two packets of denomination of Rs. 10/- were found with the applicant No. 2 on the information given by the applicant No. 1. Those packets were duly sealed by State Bank of India, Burhanpur branch. The applicants could not tell about the receipt of such amount otherwise and therefore, the appellate Court had rightly convicted the applicants for offence punishable u/s 411 of IPC. There is no reason, so that the concurrent findings given by both the Courts below relating to conviction for offence u/s 411 of IPC may be disturbed. There is no reason to accept the revision against conviction.

5. So far as the sentence is concerned, it would be apparent that the applicants were the first offenders. They have faced the trial, appeal and revision since last 14 years. Out of the entire stolen amount, only a meager amount of Rs. 2,000/- was found with the applicants, whereas they remained in the custody for more than 18 months. Under such circumstances, it is a fit case, in which the sentence directed against the applicants may be reduced to the period for which they remained in the custody. There is no need to enhance the fine amount.

6. On the basis of the aforesaid discussion, the revision filed by the applicants is hereby partly allowed. Their conviction for offence punishable under sections 411 of IPC is hereby maintained but, sentence is reduced to the period for which they remained in the custody. There is no change in the fine amount. A copy of the order be sent to both the Courts below along with their records for information and compliance.