
(2003) 07 JH CK 0036

In the Jharkhand High Court

Case No : Criminal Appeal No. 63 of 1997

Umesh Kumar Singh alias Umesh Singh

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 14-07-2003

Acts Referred:

Penal Code, 1860 (IPC) — Section 395

Citation : (2004) CriLJ 1504 : (2003) 3 JLJR 671 : (2004) 2 RCR(Criminal) 924

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : P.D. Agarwal and S.U. Banerjee, for the Appellant; M. Patra, Assistant Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—The appellant has preferred this appeal against the judgment dated 26-2-1997 passed by the Additional Judicial Commissioner, Lohardaga in S.T. No. 344 of 1995/75 of 1996 whereby the learned trial Court convicted the appellant u/s 395 of the Indian Penal Code and sentenced him to undergo Rigorous Imprisonment for five years.

2. The prosecution case in short is that in the night of 6/7-12-1994 at about 11 p.m. when the informant along with Lalit Oraon and Flaster Topno, were sleeping in the Khalian. 13 unknown persons came there variously armed and told them they were members of Jan Mukti Morcha and they proposed to hold a meeting in the village. They demanded food from the villagers and thereafter started eating the food materials available in the house of Chengra Munda. The miscreants told them that they were not criminals but they were the protectors of forests and they began to demand money from the villagers. On refusal they took away some sarees from the house of the informant, clothes and cash from the house of Chengra Munda and others. They also molested Sunita Mundain.

Thereafter they asked the informant to guide them to the neighbouring village

Kera Jharla and they also looted away several other articles and cash from the house of several villagers. They warned the informant and other not disclose about the occurrence to anyone.

3. Altogether 13 witnesses were examined on behalf of the prosecution in order to prove the case P.W. 4 identified the appellant in the T.I. Parade as well as in the dock also as one of the miscreant.

4. Mr. P.D. Agarwal learned counsel appearing for the appellant has very fairly submitted that in view of the evidence adduced by the prosecution there is nothing, much to argue in defence and, therefore, he confined his prayer for reduction in sentence. He submits that since the occurrence is of 1994 i.e. about 10 years back and since the appellant was remanded to the Jail custody on 27-1-1995 and thereby he has remained in jail for about two and half years, therefore, in the circumstances, he prays that a lenient view may be taken so far as the sentence is concerned.

5. In that view of the matter, conviction u/s 395 of the Indian Penal Code passed against the appellant by the trial Court is confirmed.

6. So far as the sentence awarded by the trial Court is concerned considering the submission of the learned counsel for the appellant and for the ends of justice, the same is reduced to the period already undergone and the appellant is further sentenced to pay a fine of Rs. 2000/- in default he shall undergo Rigorous Imprisonment for one year.

7. In the result this appeal is dismissed with the modification of sentence as aforesaid.