

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal No. 98 of 2006

*[against the judgment of conviction and order of sentence dated
07.01.2006 passed by learned Additional Sessions Judge F.T.C.-II,
Bokaro in Sessions Trial No. 135 of 2004]*

Shailendra Singh, Son of Satya Narayan Singh, resident of
Village- Paspura, Police Station- Begusarai (M), District-
Begusarai (Bihar).

..... Appellant

Versus

The State of Jharkhand

..... Respondent

.....

For the Appellant : Mr. Chandan Kumar, *Amicus*.

For the Respondent : Mr. Shiv Shankar Kumar, A.P.P.

.....
P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

Dated: 06th December, 2024

By Court: - Heard learned counsel for the parties.

2. The present appeal is directed against the judgment of conviction and order of sentence dated 07.01.2006 passed by learned Additional Sessions Judge F.T.C.-II, Bokaro in Sessions Trial No. 135 of 2004, whereby and where under, the appellant has been held guilty for the offence punishable under Section 379 of the I.P.C. and sentence to undergo R.I. for two years along with fine of Rs.500/- with default stipulation.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal in a narrow compass is that on 29.08.2003 at about 08:30 PM,

informant along with his father was going to Madhupur by Mourya Express. In front of their seats 5-6 persons were sitting beside him. One of them has given a biscuit to his father and one another person and after eating the biscuit both persons were losing their consciousness. As the train reached to Bokaro Railway Station, the person who has given the biscuit (appellant) started going away with attachi and bag. Thereafter, the informant raised hulla and the G.R.P. officials came and caught the appellant and other co-accused fled away.

4. On the basis of fardbeyan of the informant, Bokaro Rail P.S. Case No. 20 of 2003, G.R. No. 41 of 2003 was registered for the offences under Sections 328/379/411/34 of the I.P.C.
5. After completion of investigation, the Investigating Officer has submitted the charge sheet against the appellant for the aforesaid offences and after taking cognizance of offences, the case was committed for the trial thereafter, where the charges were framed for the offences under Sections 328, 379 and 411 read with 34 of the I.P.C., which they denied the charge and claimed to be tried.

6. In order to substantiate the charges levelled against accused, altogether six witnesses were examined by the prosecution.

P.W.-1 : Mahendra Pawan.

P.W.-2 : Lakhi Chandra Singh.

P.W.-3 : Govind Prasad.

P.W.-4 : Upendra Pd. Singh.

P.W.-5 : Indradeo Singh.

P.W.-6 : Udit Narayan Singh.

7. Apart from oral evidence, following documentary evidences were also adduced.

Exhibit-1 : Signature of P.W.-1 on Seizure list.

Exhibit-2 : Fardebayan.

Exhibit-3 : FIR.

Exhibit-1/1 : Seizure list.

Exhibit-4 : Confessional statement of Shailendra Singh (appellant).

8. The case of defence is denial from occurrence and false implication. However, no oral or documentary evidence has been adduced by the defence.

9. Learned *Amicus* for the appellant without touching the merits of the conviction of the appellant has confined his argument on the point of sentence and submits that the appellant was arrested with stolen articles which has already been handed over to the owner of the goods and the appellant has been sentenced to undergo to R.I. for two years with fine of Rs.500/- for the offence under Section 379 of the I.P.C. He has already undergone 23 months (one year, 11 months) judicial custody during the trial of the case and substantially, punished for the offence alleged to be committed in the year 2003 at Railway Station, Bokaro and more than 20 years has been lapsed. Hence, the sentence for the appellant may be reduced for the period undergone by him.
10. Per contra, learned A.P.P. appearing for the State has defended the judgment on merits. But, so far reduction of sentence as argued by the learned *Amicus curiae* for the appellant is concerned, it has been fairly admitted that the appellant has already undergone one year 11 months imprisonment during pendency of trial of the case.
11. I have gone through the record of the case along with the impugned judgment and order in the light of the contentions raised on behalf of both side.

12. It appears that the date of alleged occurrence is of the year 2003 and more than 20 years has been passed from the alleged occurrence. The appellant has sustained agony of trial for the aforesaid period and has remained in the custody for the substantial period i.e., one year 11 months out of two years imprisonment and fine of Rs.500/-. Hence, the period of sentence awarded by the learned trial court is reduced for the period already undergone.
13. Accordingly, this appeal is dismissed with modification in sentence as stated above.
14. Appellant is on bail. He is discharged from the liability of bail bond. Sureties shall also be discharged.
15. The Secretary, Jharkhand High Court Legal Services Committee shall reimburse the learned Amicus Curiae on submission of bill, as per Notification dated 23.11.2017.
16. Let the copy of this judgment be sent to the concerned trial court.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court at Ranchi.

Dated: 06th December, 2024.

Simran/-**NAFR**